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H – 125

International Court of Justice

H0125-0002

Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany on 7 May 1946, 1000-1300 Lord Justice Lawrence presiding.

WALTHER FUNK -- Resumed.

CROSS EXAMINATION -- Continued.

BY MR. DODD:

Q Mr. Witness, you had a converende with Dr. Sauter last night after we recessed court, did you, for about an hour?

A Yes.

Q Now we were talking yesterday when the Tribunal closed about the gold deposits in the Reichsbank, and I had asked you when you started to do business with the SS and, as I recall, you said you didn't do any business with the SS. And then we went along a little further and you did say that the SS did deposit some materials, some property belonging to people in concentration camps. Do I properly understand your testimony to have been, in substance, as I have stated it?

A No. I said that Mr. Puhl -- I don't remember in what year -- told me one day that the SS had delivered a gold deposit and he also told me -- and he said it somewhat ironically -- it would be best that we don't try to ascertain what this deposit is. As I said it yesterday, it was impossible to ascertain what is deposited because when somebody deposited something the Reichsbank had no right to look into it to see of what it consisted. Only later, when Mr. Puhl made another report to me, I began to realize that when he used the word "deposit" it was a wrong term; it was not a deposit but it was a delivery of gold. That is a great difference. And I personally assumed, since they are always speaking about a gold deposit, that this gold consisted of gold coins or other foreign currency or possibly small bars of gold or something similar which had been brought in from the inmates of the concentration

H0125 - 0003

camps just like everybody in Germany had to deliver these things and that the Reichsbank was given this gold to use it. Since you mentioned this matter I remember another fact of which I was not conscious until now. However, I have been asked about it in my interrogation and during this interrogation I could not say yes to it because at that time I did not remember this fact. I was asked during my interrogation whether I had the agreement of the Fuehrer of the Reich that the gold which was delivered to the Reichsbank could be utilized by the Reichsbank. I said I don't remember this. However, if Mr. Puhl makes such a statement under oath, I can disagree with it. However, it is a matter of fact that if gold is delivered which belongs to the Reichsbank that then the Reichsbank has the right to utilize such gold. I never spoke at most more than twice or three times about this fact to Mr. Puhl, of these -- what these deposits or these deliveries consisted and what was done with these deliveries, how they were utilized I don't know. Mr. Puhl never informed me about that.

Q Well now, let's see. You were not ordinarily in the habit in the Reichsbank of accepting jewels, eye glasses, spectacles, watches, cigarette cases, pearls, diamonds or gold dentures, were you, accepting that sort of material for deposit in your bank?

A No; but that is entirely impossible, in my opinion, that the bank had a right to do that, because these things were supposed to be delivered at an entirely different place. If I am correctly informed about the legal position, it was supposed to be delivered to the Ministry of the Interior. Diamonds, jewels and ornaments were not the concern of the Reichsbank because we were not authorized to sell this kind of stuff.

Q That is exactly right.

A If that has happened then the Reichsbank did that illegally. The Reichsbank was not authorized to do that.

Q And then is it your statement that if it was done you did not know anything about it?

A No.

Q You did not?

H0125 - 0004

A No.

Q You were frequently in the vaults of the Reichsbank, weren't you? You were frequently in the vaults of the bank yourself?

A Yes, I was, where the gold bars were located.

Q I will come to the gold bars in a minute. I just want to establish that you were in the vaults frequently and your answer, as I understand it, is yes, that you were?

A It was the usual thing that if someone came to visit us, particularly foreign visitors, to show them the rooms where the gold was kept and we usually showed them the gold bars. The usual gag that was spoke, whether you could lift a gold bar or not. But anything other than gold bars I have never seen in my place.

Q How heavy were these gold bars that you had in the vaults?

A Those were the usual gold bars which were used in commerce between banks. I think they vary in weight. I think the gold bars had a weight of about 20 kilograms. Of course, you can figure it out.

Q That is an answer. When you were in the vaults you never saw any of these materials that I mentioned a few minutes ago -- jewels, cigarette cases, watches and all that business?

A No, never. I have been in these vaults at the most four or five times, and only to show them to visitors, because it was a spectable.

Q Only four or five times from 1941 to 1945?

A I assume so. It wasn't more often, I only went down there with visitors, particularly foreign visitors.

Q Are you telling the Tribunal that as head of the Reichsbank you never made an inspection, so to speak, of the vaults, never took a look at the collateral? Didn't you ever make an inspection before you made your certifications as to what was on hand? Certainly every responsible banker does that regularly, doesn't he? What is your answer?

A No, never. The business of the Reichsbank is not conducted by the President. That is conducted by the Directorate. I never bothered with individual transactions, even gold transactions. I never bothered with the disposition of small gold shipments. If there were large shipments of gold arriving the Directorate reported to me, because the Directorate conducts the business, and I believe these detailed transactions are known only to the individual director of that particular department.

Q Now, did you ever do any business with pawnshops?

A With pawnshops. Do you know what a pawnshop is? There must be a German word for that.

SOME VOICE: Pfandleihe.

Q You know what they are, don't you?

A Where you pawn something?

H0125 - 0005

H0125-0006

Q Yes.

A No, never did any business with them.

Q All right, we will get to that a little later too.

Right now, since you don't seem to recall that you ever had any such materials as I have described, I ask that we have an opportunity to show you a film which was taken of some materials in your vaults when the Allied Forces arrived there.

(To the President) I would ask, Mr. President, that the Defendant be permitted to come down, where he can watch the film, so that his memory will be properly refreshed.

THE PRESIDENT: Yes, you may have him brought down.

(The Defendant Funk was brought down to a seat near his Counsel, Dr. Sauter. The film was shown, after which the Defendant Funk resumed his regular seat in the witness-box.)

THE PRESIDENT: Mr. Dodd, at some stage, I take it you will offer evidence as to where the film was taken, how it was made, by whom.

MR. DODD: Yes, I will. There will be an affidavit as to the circumstances under which the film was made, who was present, and why; but for the information of the Tribunal at the moment, it was taken in Frankfurt when the Allied Forces captured that city and went into the Reichsbank vaults.

H0125-0007

BY MR. DODD:

Q Now, Mr. Witness, having seen these pictures of materials that were found in yourReichsbank vaults a year ago, or a little earlier than a year ago at this time, you now recall that you did have such material on hand over a period of a little more than three years?

A I have never seen anything of this sort. I also have the impression that a large part of these things which were shown in the picture came from deposits, because these people, thousands of them, had locked deposits which they delivered to the Reichsbank, in which they wanted to hide their jewels and their other treasures before they had to deliver them; for instance, such as foreign money, gold coins. They deposited this with us. We had thousands of closed deposits into which the Reichsbank was not authorized to look.

I never saw a single item such as these shown in the film, and I cannot imagine where these things came from, to whom they belong, and to what use they were put.

Q I asked you yesterday, and I ask you again now, did you ever hear of anybody's depositing his gold dentures in a bank for safe-keeping.

A (No response)

Q You saw that film, and you saw the gold bridgework, or mouth-plates, did you not, and the other dental wrk? Certainly nobody ever deposited that with a bank. Is that a fact?

A As far as the teeth are concerned, this is a special occasion. Where these teeth came from I do not know. They were not reported to me. I do not know what was done with those teeth. I am convinced that items of this sort, when they were delivered to the Reichsbank, were to be turned over to the Office for Valuable Metal, because the Reichsbank did not deal with goldwork for this reason: We were not authorized to use this metal. I do not believe the Reichsbank had the technical facilities to go to work on this metal.

Q And not only did people not deposit gold teeth, but they never deposited eyeglass rims, did they, such as you saw in the picture?

A That is right. These things are not regular deposits. That is a matter of course.

H0125 - 0008

Q But there were some objects that obviously were in the process of being melted,down. You saw that. Practically the last scene in that film showed something that looked as if it had been in the process of being melted, did it not? You saw that?

Would you answer me, please, yes or no? Did you see it?

A I cannot answer correctly to this. I do not know whether they were melting it down. I have no knowledge of these technical matters. However, it is completely news to me, and it has not been known to me until now that the Reichsbank did ay melting down of metals. That is technical work.

Q Now, let us see what your assistant, Mr. Puhl, says about that, the man who you told us yesterday was a very credible gentleman, and whom you asked permission to call as a witness in your behalf. I am holding in my hand an affadavit executed by him on the third day of May, 1946, at Baden-Baden, Germany.

H0125-0009

"EMIL P U H L, being duly sworn, deposes and says:

1. My name is EMIL P U H L. I was born on 28 August 1889 in Berlin, Germany. I was appointed a member of the Board of Directors of the Reichsbank in 1935 and Vice President of the Reichsbank in 1939, and served in these positions continuously until the surrender of Germany.

2. In summer of 1942, WALTER F U N K, the President of the Reichsbank and the Reich Minister of Economics had a conversation with me and later with Mr. Friedrich Wilhelm, who was a member of the Board of Directors of the Reichsbank. F U N K told me that he had arranged with Reichsfuehrer H I M M L E R to have the Reichsbank received on safe deposit gold and jewels for the SS. F U N K directed that I should work out the arrangements with P O H L, who, as head of the Economic Section of the SS was in charge of the administration of theeconomic aspects of the concentration camp program.

3. I asked F U N K what the source was of the gold, jewels, banknotes, and other articles to be turned over by the SS. F U N K replied that it was confiscated property from the Eastern occupied territories but that I should ask no further questions. I protested against the Reichsbank handling this material. F U N K stated that we were to go ahead with the arrangements for handling the material, and that we were to keep the matter absolutely secret.

4. I arranged subsequently with one of the responsible officials in charge of the cash and vault departments for receiving the material, and reported the matter to the Board of Directors of the Reichsbank at its next meeting. P O H L of the Economic Section of the SS, on the same day telephoned me and asked if I had been advised of the matter. I said I would not discuss it by telephone. He came to see me and reported that the SS had some jewelry on hand for delivery to the Reichsbank for safe keeping. I arranged with him for delivery and from then on deliveries were made from time to time, from August 1942 over the following years.

5. The material deposited by the SS included jewelry, watches, eye glass frames, dental gold and other gold items in great abundance taken from Jews, concentration camp victims and other persons by the SS. This was brought to our knowledge by SS personnel who attempted to convert this

material into cash and who obtained in this connection theassistance of the Reichsbank personnel with F U N K's approval and knowledge. In addition to jewels and gold and other such items the SS also turned over banknotes, currency and securities to the Reichsbank to be handled in the usual legal procedure established for such items. As far as the jewelry and gold were concerned, F U N K told me that H I M M L E R and von K R O S I G the Reich Minister of Finance had reached an agreement that the gold and similar material was on deposit for the account of the Reich and that the proceeds resulting fromthe sale thereof would be credited to the Reich Treasury.

6. From time to time, in the course of my duties, I visited the vaults of the Reichsbank and observed what was in storage. F U N K, in the course of his duties, also visited the vaults from time to time.

7. The Golddiscont Bank, at the direction of F U N K, also established a revolving fund which finally reached 10 to 12 million reichsmarks for the use of the Economic Section of the SS to finance production of materials by concentration camp labor in factories operated by the SS.

I am conversant with the English language and declare that the statements made herein are true to the best of my knowledge and belief."

Document No. 3944-PS

It is signed by Emil Puhl and witnessed properly.

MR. DODD: Mr. President, I would like to offer this affidavit as U.S.A. Exhibit 846 and the film as U.S.A. Exhibit 845.

BY MR. DODD:

Q Now, Mr. Witness, having heard this affidavit from a close associate and your brother director on the Board of Directors of the Reichsbank, and the man who you admitted yesterday was a credible and truthful man, what do you now say to this Tribunal about your knowledge of what was going on between your bank and the SS?

A I declare that this affidavit by Mr. Puhl is not true. About the entire matter regarding these gold deposits, I spoke to Mr. Puhl at most three times, and I believe only twice. Regarding valuable stones and jewelry I never exchanged words with Puhl at all. It is incredible to

H0125-0010

H0125 - 0011

me that a man who certainly functions, also in his talk, with the SS -- that is, Mr. Puhl, -- now tries to put the blame on me.

I will take this responsibility under no circumstances, and I request that Mr. Puhl be called here, and that in my presence he declare in all detail when, where, and how he has spoken to me about these different items, and to what extent I told him what to do.

I repeat my declaration that I knew nothing about jewelry and other deliveries from concentration camps. I have never spoken to Mr. Puhl. I can only say again what I said at the beginning, that Mr. Puhl once talked to me about the fact that a gold deposit had arrived at the SS. I remember it now; I did not pay too much attention to the entire matter. I remember that, urged by him, I spoke to the Reichsfuehrer about whether the Reichsbank could utilize these items. He agreed. But at no time did he speak to the Reichsfuehrer about jewelry and valuable stones and watches.

H0125 - 0012

I only spoke of gold at all times. Whatever Puhl states about a financing-, this goes back a number of years -- I know M. Puhl visited me one day and said that for certain factories of the SS he was supposed to give a credit and somebody was negotiating with him about the matter. I asked him, "Is this credit secure? Do we get interest?" He said, "Yes, we can get them a credit from the Dresdner Bank." I said "Fine, do that". After that I never heard anything more about this matter. It is news to me how high this credit is, that it was kept in the gold discount bank. I don't remember it, but it is entirely possible. However, I never had any more words with Mr. Puhl about this credit, which he had given to factories. He always spoke about factories and this had been a bank credit which had been given by a private bank. I remember I asked him once "Has this credit been repaid?" That was a year later. He said,"No, it has not been repaid yet." That is all I know about these matters.

Q All right. Now, what do you know about this -- one part of the affidavit you have not considered. What do you know about the last part that said you established a revolving fund for the SS for the building of factories near the concentration camps? Do you remember? I read it to you. Puhl says: "The Reichsbank, at the direction of Funk, established a revolving bank which finally reached ten to twelve million Reichsmark for the use of the economic section of the SS to finance production of materials by concentration camp labor in factories owned by the SS." Do you admit that you did that?

A Yes, that is what I just mentioned, that Mr. Puhl spoke to me around 1939 or 1940, saying that gentlemen from the economic section of the SS had spoken to him regarding a credit which until that time had been established in the Dresdner Bank and which they would now like to have from the Reichsbank. I asked Mr. Puhl, "Will we get interest" He said "Yes." "Is the credit secure?" He said "Yes." and so I said "Go ahead and --"

Q You told us that.

A Otherwise I know nothing about it. That is all I know about it.

Q You also got a free for handling these materials that you saw in the film, didn't you, from the SS? The bank was paid for carrying on its part of this program?

A I did not understand this question.

H0125 - 0013

Q I said, is it not a fact that you received payment over this period of more than three years from the SS for handling these materials which they turned over to you?

A I did not know about that.

Q You would know, would you not, as president of the bank, if you did receive payment? How could you help knowing?

A These probably were such small payments that no one ever reported them to me. I did not know anything about any payment from the SS.

Q What would you say if I told you that Mr. Puhl said that the bank d receive payment over the years and that there were some 77 shipments of materials such as you saw here this morning? Do you say that is untrue or not, or do you agree with it?

A That might be entirely true, but I was never informed about these things. I know nothing about it.

Q Is it conceivable that you as president of the Reichsbank, could no know about 77 such shipments and about a transaction that you were being paid to handle? Do you think that is a likely story?

A If the Board of Directors did not report to me about these things, I cannot have known about them, and I declare again definitely that I was not informed about these details. I was told only about a gold deposit by the SS, which was brought to us. Later on it was called a delivery by the SS. And abo the credit transactions. That is all I know about these matters.

Q Let me tell you something that may help you a little bit. As a matt of fact, your bank sent memoranda to people concerning this material from tim to time, and I think you know about it, don't you? You made up memoranda of what you had on hand and whom you were transferring it to. Are you familiar with such memoranda?

A No.

Q Well, you had better look at a document, 3949-PS, USA Exhibit 847, see if it refreshes your memory any. That is PS 3948.

Now, this document is a memorandum apparently addressed to the Municipal Pawn Brokerage in Berlin, and it is dated 15 September 1942.

Now, I am not going to read all of it, although it is a very interesting

H0125-0014

document, but as you can see on there, the memorandum says "We submit to you the following valuables with the request for the best possible utilization." Then you list 247 rings of platinum of silver, 154 gold watches, 207 ear rings 1600 ear rings, 13 brooches with stones. I am just skipping along. I am not re ading all of them. 324 silver wrist watches, 12 silver candelabras, and spoons, forks and knives, and then, if you follow down here quite a way, 160 diverse dentures, partly gold, 187 pearls, four stones said to be diamonds. And that is signed "Deutsche Reichsbank, Hauptkasse, and the signature is illegible! Perhaps if you look at the original, you might tell us who signed that.

A No, I know nothing about it.

Q You have the original?

A I do not know

Q Well, look at the signature there and see if you recognize it as the signature of one of your workers.

A It says "a draft" and somebody from our cashier's office signed it. I do not know the signature.

Q Somebody from your bank, was it not?

A Yes, from the cashier's department.

Q Do you want this Tribunal to believe that employees in your bank were sending lists out to municipal pawn brokers without it ever coming to your attention?

A I know nothing about these events at all. They can only be explained in this manner: That seemingly things were delivered.

to the Reichsbank which they were not supposed to keep.

Q Well, I would also like you to look at 3949,PS, which is dated four days later, September 19, 1942, USA Exhibit 848. Now, you will see this is a memorandum concerning the conversion of notes, gold, silver and jewelry in favor of the Reich Minister of Finance, and it also says that it is "a partial statement of values received by our 'Precious Metal' (Edelmetall')." Again I think it is unnecessary to read it all. You can look at it and read it, but the last two paragraphs, after telling what the shipments contain as they arrived on 26 August 1942, the last two paragraphs say,

"Before we turn over the total amount taken in to date to the Reichshauptkasse, account of the Reich Minister of Finance, we beg to be informed under what initial this and later amounts should be disposed of.

"It might further be of advantage to call the attention of the responsible office of the Reich Ministry of Finamce in time to the amounts to be transferred from the Deutsche Reichsbank."

Again that is signed "Deutsche Reichsbank, Hauptkasse," and there is a stamp on there that says, "Paid by check Berlin, October 27, 1942, Hauptkasse."

A For this letter to the Reich Finance Minister, I believe I am able to give an explanation, and that is on the basis of testimony given here by witnesses who came from concentration camps. The witness Ohlendorf, if I remember correctly, and another one, have testified that the valuables which had been taken from the inmates of concentration camps were turned over, were supposed to be turned over to the Reich Finance Minister. Now, I assume that the technical procedure was that these things first were sent to the Reichsbank by a mistake. The Reichsbank, however, as I repeat again and again, could do nothing with pearls, jewelry, and similar items which are mentioned here, could not use these items and, therefore, has turned over these items to the Reich Finance Minister of they were used to the account of the

H0125-0015

Reich Finance Minister. In other words, this merely is an accounting by the Reichsbank for the Reich Minister. That is, I believe, the meaning of this document.

Q Well, indeed, you did hear Ohlendorf say that these unfortunate people who were exterminated in these camps had their possessions turned over to the Reich Finance Minister. I believe he testified to that effect here. Now, you also--

A That is what I heard here. These things were new to me. However, I did not know--

Q You have told us that twice already.

A --that the Reichsbank dealt with these matters in such detail.

Q Are you telling us that you did not know they dealt with them in such detail or you did not know they dealt with them at all? I think that is important. What is your answer, that you didn't know they went into them in such detail or that you didn't know anything about it?

A I personally had nothing to do with it at all.

Q Did you know about it?

A No.

Q You never heard of it?

A I did not know at all that any jewelry, watches and cigarette cases came from concentration camps to the Reichsbank. That is new to me.

Q Did you know that anything came from concentration camps to the Reichsbank? Anything at all?

A Yes, the gold, of course.

Q Gold teeth?

A I have said that--No.

Q What gold from the concentration camps?

A The gold of which Mr; Puhl had reported to me, and I assumed that these were coins and other gold which had to be deposited at the Reichsbank anyway, according to the legal regulations, and which the Reichsbank could utilize. Otherwise, I

H0125-0016

H0125-0017

know nothing about it.

Q What did Himmler say to you and what did you say to Himmler when you had this conversation, as you tell us, about this gold from the concentration camp victims? I think the Tribunal might be interested in that conversation. What did he say, and what did you say, and where was the conversation held?

A Where the conversation was held I do not remember anymore. I saw Himmler very rarely, perhaps once or twice a year. I assume that it was on the occasion of a visit in the fieldquarters of Lammers, where Himmler's field quarters was also located. I am sure it happened there. On that occasion we spoke very, very briefly.

H0125-0018

Q Tell us when it was.

A Possibly during the year 1943 or possibly 1944, I don't remember.

Q All right.

A I paid no attention to this matter at all. I imagine through the conversation I put the question, "There is a gold deposit by you, that is, the SS, which we have at the Reichsbank. The gentlemen of the Board of Directors asked me whether the Reichsbank can utilize that." And he said yes. I spoke nothing about the jewelry or similar items or gold teeth or anything of that sort. The entire conversation referred very surely to this matter.

Q Do you mean to tell us that an arrangement was made with that bank independently of you and Himmler but by somebody in the SS, that you were not the original person who arranged the matter?

A That is right., It wasn't me.

Q Who made that arrangement?

A Possibly Mr.Puhl was the gentleman, or maybe somebody else from the Reichsbank directorate, with one of the gentlemen of the Economic Section in the SS. As far as I am concerned I was only informed by Mr. Puhl.

Q Do you know Mr. Pohl, p-o-h-l, of the SS?

A I imagine it was him. Mr.Pohl, p-o-h-l, never spoke to me.

Q You don't know the man?

A I have seen him but to me Mr. Pohl never spoke about these matters.

Q Where did you see him, in the Bank?

A Yes, I saw him once in the bank when he spoke to Puhl and other gentlemen during a luncheon. I walked through the room and I saw him sitting there, but I personally never negotiated with Mr. Pohl about these questions. This is all news to me, this entire matter.

Q Well, do you recall the testimony of the witness Hoess in this court room not so long ago?

A Yes.

Q He said that he had exterminated between 2½ and 3 million Jews and other people at Auschwitz. Before I go into anything further I want to point that testimony out to you. You recall that Himmler sent for him in June, 1941, and that Himmler told him the final solution of the Jewish problem was at hand, and that he was to conduct these exterminations.

Do you recall he went back and looked over the facilities in Poland and found it wasn't big enough and he had to construct gas chambers for 2,000 people at a time, and so his extermination program could not have gotten under way until pretty late in 1941, and that Puhl says it was in 1942 that these shipments began to arrive in the SS?

A I know nothing about the date. I don't know when these things happened. I was never informed about them. This is all news to me that the Reichsbank was busy with these things to this extent.

Q I take it you want to stand on an absolute denial that at any time you had any knowledge of any kind about these transactions of the SS or their relations with the victims of the concentration camps, after seeing this file, after hearing Puhl's affidavit. You absolutely deny any knowledge at all.

A Only as far as I have mentioned it here.

Q That there was some deposit of gold made once, but no more than that. That is your statement. Let me ask you something, Mr.Funk --

A Yes. That these things happened consistently is all news to me.

Q But you did on one occasion and possibly two, break down and weep when you were being interrogated, you recall, and you did say you were a guilty man; and you gave an explanation of that yesterday. Iam just trying to establish the basis here for another question. You remember that happened?

A Yes.

Q And you said "I am a guilty man." You told us yesterday because you were upset a little bit in the general situation. I am suggesting to you that is it not a fact that this matter that we have been talking about since yesterday has been on your conscience all the

H0125-0019

H0125 - 0020

time and that is really what was on your mind and it has been a shadow on you ever since you have been in custody? And isn't it about time that you told this Tribunal the whole story?

A I cannot tell more to the Tribunal than I have already said, that is the truth. Let Mr.Puhl be responsible for what he put in the affidavit, I am responsible for what I state here on the witness stand. It is clear that Mr. Puhl is now trying to put the blame on me and make himself innocent. If he has done these things it is his guilt and his responsibility.

Q You are putting the blame on Puhl, aren't you?

A No. He is blaming me and I repudiate that.

Q The trouble is there was blood on this gold, wasn't there, and you have known it since 1942?

A I did not get that.

Q Well, I would like to ask you one or two ques-

tions about two short documents. It will take but a short time. You told the Tribunal yesterday that you had nothing to do with any looting of these occupied countries. Do you know what the Roges Corporation was?

A Yes. I don't know what they did in detail. I only know it was an organization which had official purchases for various Reich departments.

Q This Roges Corporation purchased in the black market in France with the extorted funds extorted as occupation costs, didn't it?

A I was against this type of purchases in the black market.

Q I am not asking you whether you were for or against it. I am simply asking you is it not a fact that they did do it.

A I don't know.

Q All right. I had better take a look at Document 2263 P.S. which was written by one of your associates, Dr. Landfried, whom you have also asked as a witness here and from whom you have an interrogatory. This is a letter dated June 6, 1942, addressed to the Chief of the O.K.W. Administrative Office:

"In answer to my letter of 25 April 1942" and so on, "100 million Reichsmarks were put at my disposal from the Occupation Cost Fund by the Armed Forced High Command. This amount has already been disposed of except for 10 million Reichsmarks since the demands of the Roges Raw-Material Trading Company, Inc. Berlin, for the acquisition of merchandise on the black market were very heavy. In order not to permit a stoppage in the flow of purchases which were made in the interest of the prosecution of the war, further amounts from the Occupation Cost Fund must be made available. According to reports by Roges and by the Economic Bureau of the Military Commander in France, 30 million Reichsmarks in French Francs are needed every 10 days for such purchases, according to reports by Roges an increase of purchases is to be expected; therefore it will not be sufficient to have the remaining 100 million Reichsmarks ready -- according to my letter of 25 April 1942. Above this, an additional amount of 100 million Reichsmarks will be necessary."

It is very clear from that letter written by your associate Landfried that the Roges Corporation which was set up by your Ministry was engaged in black market operations in France with money extorted from the French through excessive occupation costs, isn't it?

H0125 - 0021

A That the Roges made such purchases is true. These things have been spoken about at this Tribunal in connection with the orders and directives which the four-year plan gave for these purchases in this black market. However, these are purchases which were approved by the state organization. What we fought against were the purchases without limits in the black market. I already mentioned yesterday that I finally succeeded to get a directive from the Reichsmarshal that all purchases in the black market had to be stopped. Through these purchases naturally the merchandise was taken from the legal markets.

Q That was 1943. There wasn't much left in France on the black market or white market or any other market, was there, at that time? They were pretty well stripped at that time of the occupation as shown in the letters.

A In 1943 a great deal was coming from France because there was production in France to a large extent. The information shows in 1943 that large amounts of newly produced goods were sent to Germany.

Q I also want to talk a little bit about Russia, because I understood you to say yesterday you didn't have much to do with that. Schlotterer was your man to work with Rosenberg, wasn't he?

A He worked in Russia but only that; that he worked with the authorized Ministry for the East.

Q That is all I wanted to know. He was assigned. As he participated in the program of stripping Russia of materials and goods, which went on for some considerable period of time, you know about it.

A No, that is not true. This man did not have this task. These transactions were handled by the Economic Department, East. I think that was the name. Which was part of the Four Year Plan. These planned actions were not more than by the Minister Rosenberg.

Q It is a different sotry on different occasions. I think the best way is to read your interrogation. On the 19th of October, 1945, youwere interrogated here in Nuremberg. You were asked this question:

"And part of the plan was to take machines, materials and goods out of Russia and bring them in to Germany, was itnot?"

And you answered: "Most certainly; but I did not participate in that. But I consider it obvious, it was done."

H0125-0022

H0125 - 0023

The next question:

"Question: And you yourself participated in the discussions concerning these plans, and also your representative Dr. Schlotterer?

"Answer: I myself did not participate.

"Question: But you gave the power to act for you in that connection, to Dr. Schlotterer?

"Answer: Yes; Schlotterer represented me in economic questions in the Ministry of Rosenberg."

A No, that is not true. This testimony is completly confused, because Schlotterer was assigned to the Ministry of Rosenberg. He became head of the Economic Department there. Also, this testimony is not true to this extent, since we certainly sent more machines into Russia than we took out of Russia. When our group came to Russia everything had been destroyed, and in order to put the economy there in order, we had to send large amounts of machines and other goods to Russia.

Q Do you mean to say that you did not make these answers when you were interrogated that I have just read to you?

A Those answers are not correct.

Q You know, it is very interesting that youtold us yesterday that the answers to the questions put to you by Major Ganz were incorrect. I posed another interrogation to you yesterday and you said that was incorrect. Now, a third man has interrogated you and you say that one is incorrect.

A No, I say what I saidwas wrong.

Q Well, of course, that is what I am talking about.

A That is wrong.

MR. DODD: I will submit that interrogation in evidence; it is not in form to be submitted, but I would like to submit it a little later, with the Tribunal's permission.

THE PRESIDENT: You will inform us as to the number and so on?

MR. DODD: Yes, I will.

I have no further questions.

THE PRESIDENT: Do any of the other Prosecutors wish to cross-examine?

H0125-0024

GENERAL RAGINSKY: After cross-examination by Mr. Dodd, I have only a few supplementary questions.

BY GENERAL RAGINSKY:

Q Defendant Funk, yesterday you testified that your Ministry, at the time of the attack on Soviet Russia, had very limited authority and functions, and that you yourself were not a real minister.

In connection with this, I want to ask you a few questions in regard to the structure of the Ministry of Economics.

Are you familiar with the book by Hans Quecke, entitled "The Reich Ministry of Economics"? Do you know about this book? You don't?

A No.

Q Are you familiar with the name Hans Quecke?

A Hans Quecke?

Q Hans Quecke. You don't know?

A I know a Quecke.

Q Yes, Quecke. He was a counsellor in the Ministry of Economics.

A Quecke was a ministerial director in the Ministry of Economics.

Q Yes. And he, of course, knew about the structure of the Ministry of Economics and its functions?

A Certainly; he must have known about that.

Q Yes.

GENERAL RAGINSKY: I present to the Tribunal, in evidence, USSR-451. I now present this book as an exhibit.

BY GENERAL RAGINSKY:

Q Witness, you will be given a photostat copy of this book, and I shall quote a few paragraphs out of it. Will you please open it at page 65? The last paragraph on that page. Do you find the place?

A I haven't found it yet. I can only see that it is a report.

Q Page 65.

A Yes.

Q That is the last paragraph on the page.

A The construction of the Reich Ministry of Economics.

Q The structure of the Ministry of Economics. On the 1st of July,

H0125-0025

1941, the Deputy was a certain Dr. Landfried. That is the same Landfried whose testimony was presented by the defense counsel.

Now, will you please follow the text?

Landfried had under him a special department which was in charge of fundamental questions of supply and raw materials for the military economy.

Defendant Funk, I am asking you this.

A Just a moment; I can't find it.

Q It is in Part 2, Paragraph C. Did you find it? Part 2, Paragraph C, subparagraph 2.

A It says nothing about war economics here.

Q I shall read this paragraph into the record. We haven't gotten to the foreign organizations as yet.

A Under "State" is Department B, Basis of the Raw Material Exploitation, Defense Economics.

Q Military economics; that is what I am talking about.

Now, he also was in charge of questions of policy, economic questions in border regions.

Now, the Ministry was composed of five different departments, was it not? The third main department was headed by Maier, was it not? Wasn't it headed by him?

A Yes.

Q And you had a special group which was called "Free economics from Jews". That was in 1941.

A Yes; that was the time we dealt with these matters; that is, with the regulations.

Q Defendant Funk, I ask you to follow the text, and then you may give your explanations subsequently.

The fourth main department was headed by Dr. Kluge, and this department was in charge of banks, currency policy, and questions pertaining to finance. Wasn't that a fact?

H0125 - 0026

A Yes.

Q Now, I think that you must, of course, know the structure of your own ministry. Let us not waste time on that.

The fifth main department was headed by von Jagwitz. Is that so? This department was in charge of special economic problems in different countries. The fifth department was in charge of military economic questions, and the same department was in charge of foreign payments. This department was also in charge of confiscation of deposits. Is that true?

A I don't understand. This is the export department here. They merely dealt with foreign exports.

Q One minute, please. Take the fifth department. Did you find the place? That department in your ministry was in charge of confiscation of deposits.

Do you know anything at all about the relationship between your department and the Auslands Organization?

A Yes.

Q And in your Ministry you had a special department which was in charge of that?

A This can be explained in this manner. The Under State Secretary, von Jagwitz, who was the head of this main department, was also active in the export division. He had created a liaison office for himself in the Ministry to deal with economic questions which came to the Ministry-- and particularly to this department, which was the foreign department--and to deal with all these questions. This was only concerned around the person of von Jagwitz, who also came into the department for foreign countries., and he maintained a liaison there.

Q Yes, I understand.

Then one would understand it this way, that the foreign political department had special economic functions abroad, and it was cooperating and working with your Ministry, was it not?

A No.

Q Then what was the purpose or the aim of this department that you had?

H0125 - 0027

A That was not a department. The State Secretary, von Jagwitz, was, at the same time, active in the department for foreign policies; I don't know in what position. He was active in that department for foreign policies before he was taken into the Ministry.

Now, he himself created a liaison department from his department to the department for foreign policies. That is, frequently foreign economists came to visit the department for foreign policies of the Nazi Party, and these people came to State Secretary von Jagwitz and discussed their business with him and they reported to him what they had found in foreign countries.

Q You are trying to convince us, or persuade us, that it was purely on the personal initiative of von Jagwitz, and that you, as a Minister, did not know anything at all about it?

Now I shall ask you to follow the text of the last paragraph.

A Oh, I knew about it. He did it with my knowledge, and I approved of it, too.

Q Listen to it first; listen to what I want to say, and then you will have a chance to answer.

The last paragraph of this states the following: "The State Main Department is in charge of the Foreign Political Department of the Reich Ministry of Economics. This same department is in charge of all relations between the Ministry and the foreign organizations of the Nazi Party."

In other words, nothing is stated here about the private initiative of von Jagwitz, as you mentioned, but this department really was a part of you Ministry.

Did you find the place?

A Yes. Mr. von Jagwitz had this liaison department, and it was limited to his person only. It was a liaison office for collaboration with the foreign political organization, which was a perfectly natural procedure in many cases. I don't see why this should be unusual or criminal.

Q Well, we will come back to this.

H0125 - 0028

GENERAL RAGINSKY: Mr. President, I would like to go to another particular part. Would it be convenient to have a short recess now? I have a few more questions.

THE PRESIDENT: Very well; the Tribunal will recess.

(A recess was taken)

H0125 - 0029

Q Yesterday, you spoke about the fact that you were the Plenipotentiary for Economy but you were not a full-fledged Plenipotentiary; Schacht occupied this position and you had only a secondary position in that respect. Do you remember your article which was entitled "The Economic and Finance Mobilization?" Do you remember what you wrote in it?

A No.

Q We are not going to lose any time on that question. I remind you of it.

GENERAL RAGINSKY: I should like to submit to the Tribunal as evidence, USSR Exhibit 452, an article by Funk, which was published in the central monthly of the NSDAP and of the workers front, which was called "Der Schulungsbrief for 1939."

BY GENERAL RAGINSKY:

Q You wrote then: "As the General Plenipotentiary for Economics, appointed by the Fuehrer, I think that it is my duty that during the war it should be secured, from the economic point of view, the fullpower of the people in Germany." Did you find this place?

A Yes, I found it.

Q Furthermore, you wrote: "The use df economy for great political aims of the Fuehrer demands not only a strong leadership of all the economic institutions but also from the political point of view, such as industry, agriculture, forestry, wood industry, foreign trade transport, using of manpower, the domination of wages and salaries, finance credits, and everything should be mobilized to such an extent that the entire economic potential should be put at the disposal of the Reich. In order to fulfil this task, I, as General Plenipotentiary for Economy, have at my disposal the corresponding authorities of the Reich." Do you agree that this is exactly how you wrote in 1939?

A Yes.

Q Is the question not quite clear to you?

THE PRESIDENT: He said yes.

THE WITNESS: Yes, I certainly wrote that.

BY GENERAL RAGINSKY:

Q You know about the so-called "green Map" which was issued in July

H0125-0030

1941. It was read into the record here. These are directives for economics or, rather, directives for the plundering of the occupied territories in the East. How did you personally participate in the planning of these directives?

A I don't know that. I don't know it any more whether or not I participated at all.

Q You don't remember it? How is it possible that such documents were planned without your participation, who was the President of the Reichsbank and General Plenipotentiary for Economy?

A First, at that time, I was no more General Plenipotentiary for Economy. I was never Plenipotentiary for the armament industry. The authorities of the Plenipotentiary for Economy shortly after the beginning of the war, were turned over to the Plenipotentiary for the Four Year Plan. That has been repeatedly confirmed and emphasized and what I personally at that time had to say concerning economy and did concerning economy in the Occupied Eastern Territories, was very very little. I don't remember it any more in detail but the administration of economy in the Occupied Territories was with the Leadership Staff East of the Plenipotentiary of the Four Year Plan and that office, of course, cooperated with the Ministry Rosenberg for the Occupied Eastern Territories. Personally, I only remember that in the course of time, the Ministry of Economy sent individual business men, tradesme from Hamburg and Cologne and charged them to establish their activities, their individual economic activities in the Occupied Eastern Territories.

Q Yes, we have already heard that, how itwas developed and what developments you dealt with. That is what you called "development." Do you remember your utterances in Prague at the meeting of the South European Organization or should I remind you of it?

A No, no. During the interrogations, before this trial, my attention was called by General Alexander to the speech and I told him at that time already that there was a wrong newspaper report which I had rectified after a short time, a s hort time after it appeared.

Q Just a minute, defendant Funk. You just foresaw what I am going to ask you but you don't know yet how my question is going to be formulated

H0125-0031

and you can reply to it later. You just stated to the Tribunal that at none of the meetings of Hitler, never were discussed political or economic attacks on the Soviet Union and whenever such things were discussed at those meetings, you never participated at those meetings and all the plans of Hitler regarding the dismemberment of the Soviet Union you knew nothing about, and however, you yourself in your speech said that the East is going to be the future colony of Germany, colonial territory of Germany. You said that. Did you state it exactly so, that the East is going to be the future colonial territory of Germany?

A No; that I explained already in my interrogations. I disputed that and immediately after this was presented to me, I said that I was speaking of the old German colonial territories and General Alexander can confirm that. He questioned me about this.

Q I have no intention of calling General Alexander as a witness. I am only asking you whether you said exactly as it is written here in this booklet.

A No.

Q You just told me that I didn't have to remind you what had been written and this is exactly what had been written regarding your speech in Prague. I should like to remind you verbatim what you have said: "Large unknown territories in the great vast territories of the Soviet Union will become the much promising territories for raw materials in Europe", and at that time what was the question, what tactics were in question here at that time? I am asking you to answer.

H0125-0032

A. I have said that I did not speak about colonial territories, but of the historic areas of communization of Germany.

Q. Yes, but this is not the question of old territories, but rather the new territories which you wanted to acquire.

Well, let's leave that question.

A. The area had been conquered already. We did not have to conquer that. That had been conquered by German troops.

Q. Yes. I am well aware of how they were seized and how you left them.

You just said that you were the president of the Continental Oil Company. This company was organized for the exploitation of the oil riches of the Eastern Occupied Territories, especially at Groznay and Baku. Please tell me whether it is correct. Answer yes or no.

A. It was not only for the occupied territories, but this company dealt with oil industries all over Europe. It grew from the shares in the Rumanian oil, and whenever German troops occupied territories where there were oil deposits, then that company, which was a foundation of the Four-Year Plan, was charged by the various economic offices, later by the armament industry, with going ahead and producing oil in these territories, with reconstructing destroyed oil wells. It was a company which had a tremendous reconstruction program. I personally was the president of the board and I only had to do with the financing of that company.

Q. I have heard that already, but you didn't reply directly to my question. I asked you if the Groznay and Baku sources were the objects of the exploitation on your part. Were the oil sources of the Caucasus included as the basic capital of your plans?

A. No.

Q. No?

A. No.

Q. All right.

A. We didn't conquer the Caucasus and therefore the company could not be active in the Caucasus.

Q. Yes. However, at that time Rosenberg had already made a report

H0125-0033

regarding the seizure of the Caucasus and the exploitation of the raw materials there. Tell me, do you remember that here, before the Tribunal, there was read into the record a transcript of a meeting at Goering's office on the 6th of August 1942, regarding the Eastern Occupied Territories? Do you remember about this meeting?

A. Yes.

Q. Did you participate in this meeting?

A. That I don't know. Did they speak about the oil territories in the Caucasus in that meeting? That I don't know.

Q. I told you nothing about it. I just asked you whether you participated in that meeting, whether you were present at that meeting or not.

A. That I don't know any more. It may very well be.

Q. You don't remember it?

A. No.

Q. In that case, I should like to submit to you a document which has already been submitted to the Tribunal, and was read into the record. It is Document USSR-170.

As stated in this document, at that meeting there were discussed very effective measures for the economic plunder of the territories of the USSR, Poland, Czechoslovakia, Yugoslavia, and other countries. At this meeting, Defendant Goering addressed himself to you.

Do you remember that you were present at that meeting? No?

A. Yes, indeed. I remember that. But what Goering told me then refers to the fact that a long time after the Russian territories had been occupied, we sent businessmen there who were supposed to take merchandise into these territories that was of interest to the population. For instance, it says here:

"Businessmen were to be sent there, although we had to send them to Venice to buy that merchandise there and be able to re-sell it in the occupied Russian territories."

That is what Goering told me on that occasion.

Q. Yes.

H0125-0034

A. At least, that is what can be read here.

Q. I didn't ask you about that. I only want to know whether you were present at that meeting. Could you reply to the question directly.

A. Of course. Since Goering talked to me, I must have been there. It was on the 7th of August 1942.

Q. You replied here to certain questions of Mr. Dodd

H0125 - 0035

regarding the replenishment of the gold reserve of the Reichsbank.

Defendant Funk, I should like to put to you the following question. It was stated that the gold reserves of the Reichsbank were replenished only from the gold reserves of the Belgian Bank. Did you not know that there was stolen from the National Czechoslovakian Bank 23,000 kilos of gold which were taken to the Reichsbank?

A That it had been stolen was not known to me, but I stated explicitly here yesterday that the gold deposits had been increased by the taking over of the gold of the Czech National Bank and the Belgian Bank. I stated that clearly yesterday. I spoke of the Czech National Bank, and we worked together with them.

Q I am not asking you about the Belgian Bank, but about the Czechoslovak Bank.

A Yes, I mentioned it yesterday. I said so yesterday.

THE PRESIDENT: He said that just now. He said that he had spoken about the Czechoslovakian gold deposits.

GENERAL RAGINSKY: Mr. President, yesterday he didn't mention Czechoslovakia. That is why I put this question to him, but if he confirms it today, I am not going to interrogate him further regarding this question.

BY GENERAL RAGINSKY:

Q I come now to the next question, regarding Yugoslavia. On the 14th of April 1941, that is to say before the full occupation of Yugoslavia, the Chief Commander of the German Land Army issued an order regarding the occupied territories of Yugoslavia. This document has already been submitted to the Tribunal as Exhibit USSR-140. Point 9 of this document speaks about the compulsory weight of the Yugoslav currency; one mark equals 20 dinars. There was also compulsory introduction of Reichskreditkassenschein.

This currency operation permitted the German aggressor, in a mass way, at a very cheap price, to export from Yugoslavia various valuables and merchandise, and such operations were carried out in all the Eastern Occupied Territories.

H0125-0036

I am asking you: Do you agree that such operations were one of the means of economic plundering of the Eastern Occupied Territories?

A No.

Q Very well.

A That depends on the relation of the exchange rate. In some cases, in particular in the case of France, I protested against the under-evaluation of the currency of the occupied territories.

Q Excuse me just a second. You have already spoken about France and I don't want to take up the time of the Tribunal unnecessarily.

A At the moment I do not know what the exchange rate between the dinar and the mark was at that time. In general, as much as I had anything to do with it -- I did not make the directive; that came from the Finance Minister of the Armed Forces -- I always saw to it that the rate should not be too far different from the rate which existed, on the basis of purchasing power. I could not tell now precisely what the exchange rate was at that time.

Of course, Reichskreditkassenschein had to be brought with the troops, because otherwise we would have had to give out special requisition bills and that would have been much worse than introducing an official means of currency, as is being done right now here in Germany, because working with requisition bills is much more disagreeable and harmful for the population and the entire country than working with a recognized means of currency. We invented the Reichskreditkassenschein ourselves.

Q You want to say that you really had nothing to do with it, that the entire guilt lies with the Minister of Finance. Tell me, are you aware of the testimony which was given by your assistant Landfried, and was submitted by your defense counsel? Do you remember what Landfried said? He said something quite different. He said that on the determination of the exchange rate, you had to do especially with the currency of the occupied territories in the East.

Do you agree with Landfried?

A When these rates were determined, of course I was asked -- and

H0125 - 0037

that can be confirmed by every document -- and I always intervened that the new rates should be as close as possible to the old rates established on the basis of purchasing power, that is to say, no under-evaluation.

Q Consequently, the compulsory rate of exchange was introduced according to your directives and by you.

A Not on the basis of my directive. I was only asked for advise.

Q Your advice?

A I had to approve it. Maybe it was the Reichsbank Directorate that formally gave the approval, but anyway I was asked.

Q I am satisfied with the reply to my question. I should like to go on now to the next question.

On the 29th of May 1941, the Chief Command in Serbia issued an order regarding the Serbian National Bank, which has already been submitted to the Tribunal as USSR-Exhibit 135. This order, requested the National Bank of Yugoslavia and the entire property of that bank to be divided between Germany and its satellites. Instead of the National Yugoslavian Bank there was created the fictional so-called Serbian Bank, the leaders of which were appointed by the General Plenipotentiary in Serbia.

Do you know who was the General Plenipotentiary for Economic Affairs in Serbia?

H0125-0038

A That was probably the Consul General, Hans Neuhausen.

Q He was a collaborator of yours?

A No, he never worked at the Ministry of Finance; no, never, Neuhausen never was in the Ministry of Economics.

Q Was he a collaborator of Goering?

A Yes, that is correct.

Q Do you admit that such specific currency violations as a result of which the Yugoslavian Government was plundered to such an extent could not have been introduced without you and without your bankers and being planned by yourselves?

A I do not know the directive in detail according to which the liquidation was carried out and by which the Serbian National Bank was founded, but it is a matter of record, of course, that the Reichsbank participated in such transaction.

Q I would like to put to you another two questions:

How were these requisitions put through which were perpetrated by the German Aggressor being used up to the limit of all Economic Powers of the occupied territories and by means of various economic measures, such as devaluation of currency, a forceful continued economic plunder of the occupied territories, do you agree that this was the policy of Germany in the occupied territories of the East?

A No.

Q You do not agree?

A In no way whatsoever.

Q I would like to submit to the Tribunal the document Exhibit 453, U.S.S.R., No. U-119; it is two documents which contains the notes of the Reich Commissar for the determination of the prices of the 22nd of April, 1943. At this meeting participated experts for the prices in all the occupied territories. I should like to read into the record a few excerpts from this document:

On page 2 it says:

1st October, 1943, in Germany there were 5 million foreign workers, and of them a million and a half were war prisoners, and four million were just

H0125 - 0039

citizens, one million two hundred thousand from the East and one million from the former Polish territory and two hundred thousand from Czechoslovakia, sixty-five thousand Croatians and sixty thousand Serbs and so forth.

It is spoken in this document that the mobilization of prices should be made at the cost of the country who is submitting the materials, that is to say, from the cost of clearing.

On the 14th page it is stated that in the occupied territories the main interest did not lie in the welfare of the population but in using to the utmost the economic powers of the country.

On page 16 there is also an excerpt there. In the occupied territories of the Eastern territories the prices should be much lower than the German prices which has already given great privilege to the Bank of the Reich.

On page 7 it states about the clearing in Germany to the sum of 39-9/10 million marks, and the clearing cost is minus two million. In the Ukraine minus eight and a half million, in Serbia minus 219 million, Croatia minus 85 million, Slovakia minus 301 million, and finally on page 22of the document it states:

The prices in the occupied Eastern territories are kept at such a low level as possible. Already now we have drawn various privileges for the covering of Reich debts, and the salaries and wages are only one-third of what they are in Germany.

You agree that such planned plundering which the German aggressors perpetrated on such a gigantic scale could not have been perpetrated without your active participation as Minister of Economics and President of the Reichsbank and General Plenipotentiary for Economics?

A I return to say again and again that during the war I was no more Plenipotentiary for Economy. But may I state my position to this document? First, there is the figure of the number of the workers which have been brought from occupied territories into Germany. I have emphasized myself, and it has been approved and confirmed by other statements I was principally against it. I was principally opposed to it, that from occupied territories foreign manpower should be brought in to such a large extent that the economic order in those territories would be impaired. I am not even speding

H0125-0040

about forced recruitment of labor. I was always opposed to that, and an expert who name I do not know, has said that the price policy had no importance because the main interest was not interest for the population but the exploitation of local economy. I have to contradict that because that is not my point of view. I do not know who that man was who said that, but it is a matter of course that a territory could not produce well if one does not keep the economy on a good footing there and establish prices at such a level that the people there can exist and social order be maintained. So I have to oppose this point of view also.

As far as the clearing arrangements are concerned I have explained yesterday in detail that the clearing arrangement was in common usage for Germany, and that at any time I have always recognized and confirmed that these clearing debts are true debts and everything also shall be repeated in the currency in which they were made; also, besides I have to emphasize as a matter of principle again and again that this economy in the occupied territories I was not consulted; I had no power to give a directive there and I only participated in so far as I had the regular channels to the various offices, and that, of course, there was a connection between these offices, but any responsibility for the occupied territories I cannot assume, but for the Reichsbank I have stated, I assume full responsibility.

Q I know you are courageous and you don't want to say you are guilty, but do you remember your testimony which you gave on the 22nd of October, 1945, through interrogation?

A I don't know what you mean by that?

Q You don't remember at this time you were asked on the question of mobilization of foreign workers: Did you know about that? And you stated you never said anything against it, is that true? You said "No"? Why is it you did not say anything personally against it?

A That is not correct. I have protested against it, the recruitment of workers and against the fact so many workers were taken out of occupied territory, that the local economy would no longer be able to produce. That is not correct.

H0125 - 0041

Q I have the last question to put to you now: Do you remember an article which was published in the newspaper "Das Reich", dated the 18th of August, 1940, in connection with your birthday? This article is entitled, "Walter Funk, Pioneer of the Socialist Economic Forces". I should like to read a few excerpts from this article:

Beginning with 1941 Walter Funk as personal adviser for economic questions and Plenipotentiary of the Fuehrer for Economics, who worked both for the Party and for the economy of Germany was the one who held the pass for German industry. If in the putsch of 1933 in the official life of Germany the contradictions between the politics and the economy and the industrialists and the politicians had gradually became less and less, it became a part of all the works of the entire Reich. It should really be attributed to the great efforts of Funk who in all his work beginning with 1929 helped and worked as much as he could in that direction.

And in the last paragraph of this article:

Walter Funk remained true to himself because he was and is and will be a National Socialist, in every question and in every ideal of the Fuehrer, and what the ideals of the Fuehrer are we all know. As a matter of fact, the whole world knows that they are.

Do you agree that this is a correct view of your works and your personality?

A Generally yes.

GENERAL RAGINSKY: I have no further questions to put to the witness.

(Dr. Dix came to the lectern.)

THE PRESIDENT: What is it you wish to say, Dr. Dix?

DR. DIX: I have only one question to the witness, which was caused by the cross-examination of Mr. Dodd. I could not put this question any sooner, because it was only given by a question by Mr. Dodd.

THE PRESIDENT: Yes, go on.

BY DR. DIX:

Q Mr. Witness, Mr. Dodd has put to you a record of an interrogation, according to which Schacht after leaving the Reichsbank still

H0125-0042

had a room there, and you have heard the testimony by Schacht here. He has testified beyond doubt that he did not have any more room at the Reichsbank, that moreover the Reichsregierung put a room in his apartment at his disposal by contributing to the costs and that the Reichsregierung pai a secretary which he took from the Reichsbank but who was now paid by the Reich Government. That was the testimony of Schacht. By your answer given to Mr. Dodd it has not become quite clear whether you have any doubt of the correctness of that statement by Schacht.

A I do not know the conditions of the apartment of Dr. Schacht. I was told at the time that he was still frequently coming into the Reichsbank and that a room was reserved for him. If that information should not have been correct, then it is not my fault. I do not doubt that what Dr. Schacht said is correct. He must know the conditions in his apartment better than I do.

(There was no further questions from Dr. Dix.)

THE PRESIDENT: Dr. Sauter, do you wish to re-examine?

DR. SAUTER: Mr. President, in this final questioning of the Defendant, Dr. Funk we have harder work than usually, and that because today the translation caused serious difficulties. I myself have heard what has been spoken here and I have to admit frankly I have only been able to understand part of it. As far as the Defendant is concerned, it may have been the same, and therefore I should like to reserve the right, Mr. President, after I receive the transcript -- stenographic record -- to make one or two corrections, if any cause for that should be seen in the transcript.

We are contronted with a difficulty also, Mr. President, because the Defendant, Dr. Funk, in the cross-examination not only was submitted a large number of extensive documents. We are used to those surprises. But also the Defendant Funk had to give

H0125-0043

answers on questions concerning documents which he had not issued, which had nothing to do with his activities --

THE PRESIDENT: Dr. Sauter, the Tribunal saw no sign at all of the Defendant Funk not being able to understand thoroughly every question put to him. And I think that therefore there is no reason for any protest on your behalf and you should go on to put any question you wish to put in re-examination -- let's say, questions that arise out of the cross-examination.

DR. SAUTER: Mr. President, in our earphones, at least -- on this side -- we could not understand quite a number of questions. Whether that was particularly the case with those ear-phones or with the entire machinery I don't know.

THE PRESIDENT: Well, if the Defendant Funk did not understand any questions put to him, he could have said so. He did not say so. He answered all the questions from a logical point of view, perfectly accurately. You can ask him if you like, if he did not understand any of the questions put to him.

REDIRECT EXAMINATION

BY DR. SAUTER:

Q. Now, Mr. Funk, the Prosecution among other things has put to you that you participated in the exploitation, the plunder of France. In this connection is it correct that the merchandise, the consumers' goods, which had come from France, were in many cases manufactured from raw materials which had come from Germany?

A. Certainly. Of course, we continuously shipped coal, coke, iron and other raw materials to France, so that they could produce; especially we shipped those raw materials which the French economy did not have in the country. There was a very close exchange and a very close productive community between the German and French economy in the way of organization.

Q. Dr. Funk, excerpts from an article have been read before, which appeared on the occasion of your birthday. Do you know the author of that article?

A. Yes, Franz Jaezigo.

Q. Did he receive any material from you for that article?

H0125 - 0044

A. No.

Q. Didn't he ask for it?

A. No. I didn't know anything about that article beforehand. I did not order a birthday article for myself.

Q. So you didn't know anything about that article and therefore, if I understand you correctly, there is no guarantee that that which is said in this article is really true.

A. No. But I find that the tendency of the article is very good.

Q. Witness, the American Prosecutor confronted you yesterday with the matter of your negotiations with Rosenberg in the spring of 1941, and the fact that at that time a few months before the march into Russia you had these negotiations with Rosenberg. He apparently wanted to conclude that you had confirmed or admitted or wanted to admit that you had known about the intention of Hitler to wage an aggressive war against Russia. You did not have a chance to say anything on this yesterday. Therefore I should like to give you another opportunity now to state that very clearly and to explain what your belief was at that time concerning the intentions of Hitler in the spring of 1941, when you negotiated with Rosenberg and what you knew about eventual causes for war before that time.

H0125-0045

A As to the question of the American prosecutor, I did not understand it to mean that I had known anything about an agressive war against Russia, because it had been explained before that I was quite surprised by the task assigned to Rosenberg. But the prosecutor spoke explicitly about preparations for war with Russia.

I was informed by Dr. Lammers that the Fuehrer was expecting a war from Russia because Russia was deploying large numbers of troops along the entire border, because Russia had entered Bessarabia, Bukovina, and Transylvania, and because the negotiations with Molotov brought proof that Russia maintained an agressive policy in the Balkans and the Eastern Baltic, by which Germany felt herself threatened. Therefore, there were preparations on the part of Germany for an eventual conflict with Russia.

Concerning the meeting which the American prosecutor has mentioned, I also said explicitly that the measures concerning currency which were discussed there were approved by me, because we created thereby stable currency conditions in the occupied Eastern territory. I was therefore opposed to the idea, for instance, that the German Reichsmark should be introduced there, which the population could not have accepted because they could not even read it.

Q Mr. Witness, the Soviet Russian prosecutor has pointed out again and again that you were not only Reichsbank president and Reichsminister for Economy, but also General Plenipotentiary for Economy. You have corrected that already and pointed out that from the very beginning when you were appointed, your authority as General Plenipotentiary for Economy was practically taken over by Goering, and that, I believe, in December of 1939, your authority as General Plenipotentiary for Economy also was formally turned over to Goering.

MR. DODD: I take objection not only to the form this examination is taking, but to its substance. Counsel is in effect testifying himself, and he is testifying about matters that the

H0125-0046

witness testified to on direct examination, and it seems clear to us that this cannot be helpful at all to the Tribunal as a matter of redirect examination.

THE PRESIDENT: Mr. Sauter, do you feel it is really proper for you to get the witness to go over again the evidence which he has already given? The only object of redirect examination is to elucidate any questions which have not been properly answered in cross examination. The witness has already dealt with the topics with which you are now dealing, in the same sense which you are now putting into it.

DR. SAUTER: I have repeated the statements only because I want to put a question to the witness now concerning a document which has been submitted only yesterday, which had not been submitted until then, and on which I could not take any position, therefore, and because this Soviet Russian prosecutor has repeated the assertion here that the defendant also during the war has been General Plenipotentiary for Economy, although that is not correct.

THE PRESIDENT: I have heard myself the witness say over and over again that he was not the General Plenipotentiary for Economy during the war. He has repeatedly said that.

DR. SAUTER: Of course, sir. But it has been repeated from this side.

Mr. President, yesterday a document was submitted which bears the number E. C. 488., a letter dated the 28th of January, 1939. On the front page it is marked in large letters "Secret".

THE PRESIDENT: What is the question about it?

DR. SAUTER: Here in the original is the heading, which is in capital letters, and it reads, "The General Plenipotentiary for War Economy". That is the heading of the stationery. Then the word "War" is lined out; so that at the end you can only read, "The General Plenipotentiary for Economy".

Therefore, before the 28th of January, 1939, the title of General Plenipotentiary for War Economy must have been changed

H0125-0047

to a new title, "General Plenipotentiary for Economy".

THE PRESIDENT: Yes, I see. The copy that we have before us does not have the word "War" in it at all.

DR. SAUTER: I beg your pardon?

THE PRESIDENT: I said the copy which we have before us hasn't got the word "War" in it at all.

DR. SAUTER: On my photostat it can be seen.

THE PRESIDENT: I see it. But what is the question you want to put?

DR. SAUTER: At the time when this letter was written, the General Plenipotentiary was the defendant Funk. I should like to ask to be permitted to put the question to him, how can it be explained that the title of his office--that is, Plenipotentiary for War Economy--was changed. The question would be how it could be explained that the title of his office, "General Plenipotentiary for War Economy" had been changed to the new title, "General Plenipotentiary for Economy".

THE WITNESS: The reason is--

BY DR. SAUTER:

Q One moment, Dr. Funk, please.

H0125-0048

THE PRESIDENT: I did not ask you to stop putting your question, You can put your question. Go on. What is the question?

BY DR. SAUTER:

Q Please Dr. Funk.

A The reason was that according to the old Reich defense law, Schacht had been appointed General Plenipotentiary for War Economy, and on the basis of this second Reich defense law, which was the basis for my appointment, I was appointed General Plenipotentiary for Economy, because at that time it was quite clear that the special tasks concerning war economy -- that is to say, armament industry, and so on -- would not be with the Plenipotentiary for Economy, but that he essentially had to coordinate the civilian economy.

DR. SAUTER: In connection with that, Mr. President, May I call your attention to another document which was submitted yesterday. That is Number 3562-PS. Here the heading already has the correct title, General Plenipotentiary for Economy. That is no more "General Plenipotentiary for War Economy", and that is also a new document which was only submitted yesterday, Mr. President.

MR DODD: Just to keep the record straight, Mr. President, that document 3562-PS is in evidence, and it was submitted by Lieutenant Meltzer, at the time he presented the case against the individual defendant, Funk.

THE PRESIDENT: Mr. Dodd, am I not right in thinking that the defendant Funk stated from the outset in his examination in chief that he was appointed General Plenipotentiary for Economy?

MR. DODD: Yes, indeed, sir. That is as I thoroughly understand it.

THE PRESIDENT: And you have not challenged that?

MR. DODD: We have not challenged the fact that he said so. But we do challenge the fact that he, in fact, was only for economy. We do maintain that he, in fact, had much to do with the war effort as the Plenipotentiary.

THE PRESIDENT: Yes. But he was not to be named that?

MR. DODD: No. And that document, 488, was not offered, anyway, for that purpose, but rather to show that the defendant was engaged in talking about what prisoners of war would do after an attack.

DR. SAUTER: Yesterday a document was produced about the interrogation of

H0125-0049

a man by the name of Hans Posse. It is Document 3894-PS. The witness Hans Poss was State Secretary in the Ministry for Economy, and is as such Deputy Plenipotentiary for Economy. That record has been submitted by the prosecution in order to show that between Funk and Goering, allegedly, there was a struggle for power such as it is expressed here.

I should like to quote a few points from that record to the Witness so tha several other points can also be used as evidence:

"The Witness - He says, for instance, 'I should like to ask whether this is your opinion still of State Secretary Hans Posse'". That is Document 3894-PS page 2 of the German translation, at the botton of the page.

He was asked, "How often did you report to Funk in connection with your duties as Deputy Plenipotentiary?"

The witness answered then: "The General Plenipotentiary for Economy really never went into action."

THE WITNESS: Yes; that repeats what I said again and again, and which can be confirmed and has been confirmed by everybody who has been heard about that question. That was provision which was merely on paper.

BY DR. SAUTER:

Q Then the witness says he was asked with what final purpose you, Dr. Funk, had worked.

Dr. Posse says: "Is it correct that the office of the General Plenipotentiary for Economy was installed with the final aim to unite all economic functions concerning, and with a view to, the preparations for war."

Then the witness answers, "The purpose was what I have just said, to coordinate the various economic interests.

But there was no talk about the preparation for war.

And on the same page, on Page 4, at the botton, the witness says, literally "It is correct that it was the aim to coordinate all economic questions, but not the purpose to prepare for war. Of course, if war preparation should become necessary, it was the task of the Plenipotentiary for Economy to be concerned with these questions and to act as a coordinator."

THE WITNESS: Mr. Posse was an old, sick man whom I had put on this job. And whennI took over the ministry, I received a new State Secretary through

H0125 - 0050

Goering who became insane, unfortunately, later. And then State Secretary Dr. Landfried came to me and Posse, who formally was still in the Ministry for Economy as the State Secretary. I had no job for him, and therefore I gave him that nominal title of Deputy Plenipotentiary for Economy.

Here, of course, he had consistent difficulties. The High Command of the Wehrmacht, from the very beginning, wanted to reduce the General Plenipotentiary in his authority, which could be seen from the letter which was produced yesterday. And the civilian economy department did not want to follow his directives because they already had been subordinated, and had to follow the Plenipotentiary for the 4-Year Plan. Therefore, as a matter of fact, that unhappy General Plenipotentiary for Economy remained on paper, essentially.

THE PRESIDENT: Would this not be a convenient time to break off now?

(A recess was taken until 1400 hours.)

H0125-0051

File

Official transcript of the International Military Tribunal in the matter of: The United States of America, the French Republic, The United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics, against Hermann Wilhelm Goering at al, Defendants, sitting at Nurnberg, Germany on 7 May 1946, 1400-1700, Lord Justice Lawrence presiding.

DR. SAUTER: Mr. President, I have two more questions which I wish to put to the defendant, Dr. Funk.

WALTHER FUNK - Resumed

REDIRECT EXAMINATION - Continued

BY DR. SAUTER:

Q Dr. Funk, before the recess we stopped at the document 3894-PS, testimony of your State Secretary Posse. I would like to quote one paragraph from page 7 of the German text and I would like to ask you whether you agree with it. The witness Posse was asked by the District Attorney whether he, as Representative General Plenipotentiary for Economy, knew of the international relations, especially of the situation of the war, and he replies, on page 7, in the center: "We knew never anything about the international situation and we never heard anything about it, and if the international situation was mentioned in our discussions we could always say nothing more than our personal opinions about it." A few lines further down: "We" -- that is himself and you, Dr. Funk -- "We always hoped that there would be no war." Do you agree with this opinion of your former State Secretary Posse?

A Yes. I have said repeatedly that until the end I did not believe that there would be a war and the same applies to my collaborators, and everyone who spoke to me at that time will corroborate this. Posse was still less informed about political and military events than I was. Consequently, it is even more true about him than about me.

Q Then I have a final question to put. Mr. Witness, you saw the picture this morning which the prosecution has presented. You were the President of the Reichsbank. Consequently, you are familiar, possibly only superficially, with the conditions in the vaults of the Reichsbank,

H0125-0052

at least, I assume, in Berlin, even though you may not have known them in Frankfurt where the film was taken; and you also know how, especially during the war, these items were kept which had been deposited with the bank in valises or in packages which were wrapped up or similar containers. Possibly, Dr. Funk, you can make a statement on the basis of your own knowledge of the conditions regarding this small picture which we have seen.

A I am completely confused by this film and I am deeply shocked by it. The photography and especially the film are always very dangerous documents because they show many things in a different light than things actually are. I personally have the impression, and I assume the prosecution will probably corroborate this, that all these deposits of valuables as well as all these collections of valuable items came from the Kali mines, into which, at my behest, all gold, currency and other valuables of the Reichsbank had been stowed away when, due to a terrific bombing attack on Berlin, we were unable to continue our work in the Reichsbank building. The Reichsbank building alone was hit -- on February 3, 1945, during this raid -- was hit by twenty-one explosive fragmentation bombs. Only a miracle made it possible for me to come to the surface together with five thousand other people from our deeply located bunkers. At that time gold, currency and all other valuable deposits were brought to a potassium mine in Thurania and from there, it seems to Frankfurt. At least I assume so. In other words, this to a large extent, all these packages contained normal deposits by customers who had brought these locked deposits, which could not be touched by the Reichsbank, had brought them to the Reichsbank for safe keeping. Consequently, this film does not make it possible for me to differentiate which items came from donations or deliveries by the SS and which were genuine deposits. The prosecutor certainly is correct if he claims that no one is going to deposit gold teeth in a bank, but it is entirely possible that certain functionaries of the concentration camps made genuine deposits in the Reichsbank which contained such articles to save for themselves for the future. I think

H0125 - 0053

that is possible. However, in c clusion I must say once more that I personally had no knowledge whats ever of these things and of the fact that, coming from concentration c mps, jewelry diamonds and pearls and other objects in that extent were delivered to the Reichsbank. I knew nothing about it.

This was unknown to me, and I personally am of the opinion that the Reichsbank was not authorized to do this kind of business. Of course, one document, the accounting for the Finance Minister, indicates that most likely everything from the concentration camps was first brought to the Reichsbank and then the poor officials of the Reichsbank had to take it apart and send an accounting to the Finance Minister or to the pawn shops and finally had to make an accounting ofall these transactions.

Therefore, I must request that a man be heard about these events; first of all, Mr. Puhl, and perhaps another man who dealt with these articles so he can explain how these things actually took place and particularly show that I personally had no knowledge whatsoever of these events except the facts which I personally have submitted to the Court before.

DR. SAUTER: Mr. President, I am at the end of my interrogation of the accused Funk. I would like to put the request that I may call the sole witness whom I have at this time, the witness Dr. Heiler.

MR. DODD: Mr. President, may I raise one matter before the witness is excused? This document 3894-PS that we have quoted from and that the defendant has quoted from contains a number of other quotations and I think it would be well if we submitted the whole document in the four languages, and I shall be prepared to do that so the Tribunal will have the benefit of the whole text. So far we have both been quoting from it, but I think it would be most helpful to the Court if it had the whole text.

And may we ask, Mr. President, if we should do anything about getting the witness Puhl here? We will be glad to bring him here if he is to be brought.

THE PRESIDENT: Dr. Sauter, have you any request to make with reference to the witness Puhl, who made an affidavit?

DR. SAUTER: Regarding the witness Puhl I wanted to ask you, Mr. President, that he be brought here for cross-examination, the witness Emil Puhl. I would have made that request anyway.

THE PRESIDENT: Yes, certainly, Dr. Sauter. The witness Puhl should be brought here. He will be brought here as soon as possible.

DR. SAUTER: Thank you.

THE PRESIDENT: Now the defendant can return to the dock.

H0125 - 0054

FRANZ HEILLER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name?

A Franz Heiler.

Q Will you repeat this oath after me: I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. SAUTER:

Q Dr. Heiler, how old are you?

A 46 years.

Q Are you a professional official, or how did you get your position in the Ministry of Economy under Mr. Funk?

A I have been a business man, and I was in Trade and first became the head of the department for Economy. Inthis position, I dealt very closely with the Ministry of Economy.

I met Minister Funk after he had been nominated for this position, and I reported to him regarding my type of work, and on that occasion I made his acquaintance. When I was put in charge of the Reichsgroup, Trade, there developed a working relation between my organization and the Ministry, especially with the then State Secretary Landfried and the Minister himself. We became very friendly during our working relations.

After the ministries had been partitioned in the fall of 1943, the main task of the Ministry was the nourishing of the German people, that is, of the civilian population.

As head of the Trade organization, I was the head of the responsible organization for the sale of merchandise; that is, for the procurement of food, and during a conference with Minister Funk regarding the collaboration between Trade and the Ministry, Mr. Landfried, who was then a State Secretary, made the suggestion that Minister Funk call me into his Ministry and make me his representative. Mr. Landfried believed that under the then existing conditions he himself was not strong enough to master this difficult task since the influence of the Ministry upon production had been taken away.

H0125 - 0055

Then, when Minister Funk told him, upon his suggestion, that he -- that is, Landfried -- was the representative of the Minister, Landfried replied that he could not continue to handle this task alone and that he requested that he be permitted to retire, and he suggested that I take over his position.

About two to three weeks after, I was put in charge of the task of the State Secretary.

Q When was that?

A This conference took place about at the end of October, 1943, and my appointment came on 20 November.

Q That is, until the fall of 1943, Dr. Heiler, you were active in only an honorary position?

A Yes, I think that was the year.

Q Your department was the detail?

A Yes.

Q And beginning in 1943 you became an official in the Reich Ministry of Economy with the rank of a State Secretary?

A I became an official on January 30, 1944.

Q In this position, you were one of the closest collaborators of Dr. Funk?

A I was his deputy.

Q Dr. Heiler , during a conference that we had day before yesterday, I discussed with you the question of whether the accused Dr. Funk was a particularly radical type of man or whether, to the contrary, he tried to be moderate and concerned with the interests of other people. What do you have to say to this question? For the judgment of the personality of the accused Funk, it is of a certain importance.

A Funk, in the main, is a human being, and he always has been a human being. His entire character, his entire mannerism, is not fitted for radicalism. He is more an artist, a man who has a very fine artistic feeling and thinking.

H0125 - 0056

H0125 - 0057

I believe one can say that at no time was he doctrinary or dogmatic. To the contrary, he always tried to ameliorate. For this reason people within the party circles took him as too soft, too easy-going, too forgiving. Many times he was accused of being too weak. He made the attempt to keep economics safe from political interference and from unnecessary harshnesses, and due to his respect and his regard for the enterprising endeavors and for the responsibility of the people in the general economy, even during the war he fought against unnecessary intervention within the factories and trade establishments; he protected the business world against coalitions.

This had the result that in the end during the deciding phases of the war the responsibility for the production was taken away from him.

I recall from my collaboration with him when I still was in charge of the trade organization that Funk at various occasions fought for men in the trade world who were in political differences.

However, these individual cases, such as intervention for the Consul General Hollaender or for Mr. Pietsch the time when he was in danger of grave consequences because he had tried to initiate peace movements; or as is probably known, at the time at which Funk fought for Richard Strauss; I don't think these individual cases are of as great importance as the following: After the catastrophe of November 9, 1938, the course of the Aryanization was also planned at a decreased pace with him, the Minister of the Economy. At that time there were a number of political men had been forced upon the Ministry, especially Mr. Speer. I recall distinctly that at that time particularly Landfried and also Funk were objecting to this radicalization of the Ministry and fought against it. Funk and the Ministry were blamed for doing this, repeatedly.

After the 8th and 9th of November I once had a conference regarding the events of that date with Himmler in which I voiced my complaint. Himmler said at that time among other things, and reproached Funk and me in doing that, he said "Recently you people have been at fault that things have been driven to this point. From a Mr. Schacht nothing could be expected but constant interference and slowing down." And that he

H0125 - 0058

fought against the will of the party. "But that you and Funk and all of the gentlemen with him in the Economy, if you had not slowed it down as you did, these excesses would not have happened."

Q You collaborated with Dr. Funk also regarding those questions which concerned the economy of the occupied territories. Dr. Funk is accused of having participated in the spoliation of the occupied territories as well as of the destruction of the currency there and the economy in those countries, having done that in a criminal manner. Could you in as short a time as possible give us a few instructions regarding the attitude and the activities of the defendant Funk? Make it as short as you can.

A I believe two things must be stated at first. First, the influence of the Ministry of Economy upon the occupied territories was relatively limited; two, during a year during which I was active inthe Ministry these questions had ceased to be of particular importance. In general the following comment can be made to this question: Funk was constantly accused of thinking more of peace than of war. In all his publications, oral as well as written, he publicized his thoughts regarding a European economic policy; and I assume that these talks and these publications, that is, articles, are before the Court today.- -

Q They are here.

A Funk had the same viewpoint regarding the occupied territories. He repeatedly spoke against a too strong exploitation of the occupied territories and took the position that the collaboration during the war was in the final analysis the basis of a future peaceful collaboration. He took the position that even during the war the confidence and readiness to collaborate should obtain in the economies of the occupied territories. He took the position that at no time the black market could be fought with a black market and we, out of the responsibility which we had for the occupied territories, should avoid everything which would bring disorder into the currency and into the economy of these territories.

I believe that I can remember that he also spoke with the Reichs-

H0125 - 0059

marshal regarding these questions and had given him his viewpoint quite frankly. He also spoke against the exaggeration of the occupation costs, spoke repeatedly against them, and constantly fought for a lessening of the German expenses in the occupied territories.

In other words, he took not a different position toward the occupied territories than he had towards all the other European countries, and this attitude is best illustrated by the fact that in his speech in Vienna, if I remember correctly, he declared before the whole world that the clearing - which to a great extent could be traced to the inflationary tendencies in the delivering countries - he recognized these as genuine debts.

H0125-0060

Q Dr. Heiler, the accused Funk is, furthermore, accused of participating in a criminal manner in the enslavement of foreign workers. This accusation particularly hits the time during which you were a collaborator of Dr. Funk. Could you tell us, as shortly as possible, how Funk thought regarding this point and how he acted regarding this point?

A A collaboration as to questions of securing foreign workers could only be claimed, as far as Funk is concerned, during the time I was with him, within the framework of his responsibility within Central Planning.

At first the question comes up whether Central Planning was responsible for the procurement of foreign workers, or whether Central Planning did nothing more than ascertain the manpower needs of the various production spheres. However, regardless of what the tasks of Central Planning may have been, Funk's position within Central Planning has been the following.

Funk, as Minister of Economy, had to ascertain the civilian procurement and export. During the time after the separation of the ministries, I believe no foreign worker was brought into production for the civilian procurement or production for export. To the contrary, Funk was informed constantly of the fact that, during that time, German and foreign workers were constantly removed from the production of consumer goods and put into armament production.

Consequently, I cannot assume that, stemming from this time, an accusation of this sort could be made against Funk.

At this occasion I would like to emphasize another point which seems important to me. The supply for the foreign workers was a very serious question. I believe that even Mr. Sauckel will corroborate the fact that when this question came about, Funk was at once ready -- that is, in spite of the great existing need which was already present on the part of the German people, due to the many air raids, Funk took large amounts of supplies and put them at the disposal of the foreign workers.

Q If I understand you correctly, he did his utmost to take care of the foreign workers who worked in Germany and saw to it that they were supplied as well as was possible with food, shoes, clothes, and so on.

H0125-0061

A Particularly shoes and clothing; Funk had no authority over the food question. I know this case which I mentioned very correctly. Funk had a great deal of difficulty because of this for the Gauleiters, the District Leaders, due to the tremendous lack of goods, did their best to secure supplies for the inhabitants of their own districts, and they used every means to do that. Funk had a constant fight against the acts of Gauleiters, who took stocks which were reserved for the general supply, which were broken open and used individually.

Q Dr. Heiler, do you know whether Dr. Funk, during your time -- I always speak about the time during which you collaborated with him -- whether Dr. Funk fundamentally took the viewpoint that the foreign worker should not be brought to Germany to work here, but, to the contrary, that the work itself should be taken from Germany into the foreign country so that the foreign worker could perform his work in his own home country and remain at home?

Please answer that.

A I know very well that Funk had that viewpoint, and that is parellel to his general conception. The political disquiet and dissatisfaction which followed the movement of these large masses of human beings and the temporary uprooting of these people -- these movements were contrary to the policy of peace and rebuilding, which certainly was the policy of Funk.

Q I now come to my last question. The last question I wish to put to you is the following.

When the German armies retreated and when German territories were occupied by enemy armies, difficulties arose regarding the supply of these territories with money. At that time Hitler is supposed to have planned a law according to which the acceptance and passing on of foreign occupation money was to punished even by death. I am now interested, Dr. Heiler, in finding our not why Hitler planned to do this, but I only want to know, if you know it, how the defendant Funk acted in regard to this demand by Hitler and what success he had with it.

A There are two answers to be given to this point, which would be interesting. I have rarely seen Funk as depressed as at that time, after

H0125 - 0062

he had taken cognizance of the so-called "scorched earth" law. I believe he was the first minister who, at that time, created two very clear directives. One directive was from the Ministry of Economy in which he clearly directed that where German people are, the administration of economy must remain; where there is need of supply, the State must takencare of the people and make sure their supply is safe.

The second directive came at the same time from the desk of the Reichsbank President. In this he directed that in the same manner, as there was an economic administration, the money market was to be administered by the remaining offices of the Reichsbank, and it was their task to keep the money market safe.

Regarding your question, I recall very distinctly that the demand of the Fuehrer had already arrived in the Ministry of Economy. He demanded, at that time, the issuing of a lawful directive according to which the acceptance of occupation money was forbidden for every German; the punishment for doing it was death. Mr. Funk objected actively to this directive. He was very energetic about it. I believe he had the help of Mr. Lammers. He phoned headquarters repeatedly, and finally succeeded in causing the retraction of the directive of the Fuehrer.

Q Have you finished?

A Yes.

DR. SAUTER: Mr. President, I have no further questions to put to the witness.

THE PRESIDENT: Do any of the other defendants' counsel wish to ask any questions?

(No response)

Does the prosecution wish to cross-examine?

H0125-0063

CROSS EXAMINATION

BY MR. DODD:

Q When did you join the Nazi Party, Mr. Heiler?

A Did I understand you correctly -- when I became a member of the Nazi Party?

Q That is right.

A December 1931.

Q Did you hold any offices in the Party at any time?

A No; in the Party, I had no office whatsoever.

Q You were the head of a trade group in 1938, the Reichsgruppenhandel?

A I was the head of the economic group retail trade until 1938 and from then on, Reich Group Trade. This organization was part of the organization of the economy and was subject to the Reichsministry of Economy.

Q Membership in the group that you were the head of was compulsory, wasn't it?

A Yes.

Q When did you join the SS?

A I joined the SS in 1933 during the summer.

Q That was kind of a Party office, wasn't it, of the sort?

A I had no office there. There was no office. I became connected with the SS through the fact that in Munich 165 businessmen were locked up and I knew Himmler therefore from my student days. I had never seen him until then and the businessmen in Munich asked me to intercede for them in the summer of 1933 but I had no office in the Party or in the SS.

Q When did you become a General in the SS?

A I was never a general in the SS. After I had become a State Secretary, the Reichsfuehrer gave me the grade of a group leader of the SS.

Q A gruppenfuehrer -- isn't that the equivalent of a general in the SS?

A Yes and no. In the SS, there was a grade of a gruppenfuehrer and there was also a grade of a gruppenfuehrer and general of the police or the Waffen SS but the gruppenfuehrer, it was not a general but it was only an honorary grade. We had to make this recognizable because we did not wear the general's epaulets and not a general's uniform.

Q You know Ohlendorf pretty well, don't you?

H0125-0064

A Yes.

Q He worked for you at one time. He was under your supervision. Isn't that so?

A I collaborated with Ohlendorf since 1938.

Q You know he has testified before this Tribunal that he supervised the murdering of ninety thousand people; did you know that?

A I heard about that.

Q Did you know about it at the time that it was going on?

A No.

Q Did you know Pohl, the SS man -- P-O-H-L?

A May I ask you for that name again?

Q Pohl -- P-O-H-L?

A I don't remember. I don't remember to have known an SS man Pohl.

Q Do you know a man called "Gruppenfuehrer Pohl of the SS?"

A No -- Yes, I know an Obergruppenfuehrer Pohl. Obergruppenfuehrer Pohl was the chief of the economy department of the SS.

Q Did you have conversations and meetings with him from time to time?

A Officially, I had a number of conversations with Pohl. Usually they were very unpleasant.

Q Well, that's another matter. How long would you say, between 1943 and the end of the time of your surrender, you met with Pohl to discuss matters of mutual interest between the SS and your own Ministry of Economics? Approximately, because I don't expect you to give an accurate account, but how many times, would you say?

A I must give a short explanation to this question.

Q Give that afterwards. Give me the figure first.

A Yes. Perhaps three or four times, three or four times, perhaps only twice. I don't know.

Q Are you telling us three or four times a year or three or four times during the whole period between 1943 and 1945?

A During my time in office, yes, three or four times; it was only one year.

Q Did you talk to him about the Reichsbank or the Ministry of Economics cooperating in the financing for the building of factories near

H0125-0065

the concentration camps?

A No.

Q You don't know about that, do you?

A No. This question was never discussed with me.

Q What did you talk to him about?

A It was between the Ministry -- there was a great fight between the Ministry of Economy and the SS. The reason was: After I had taken over the State Secretariat in the Ministry of Economy, Himmler told me to turn over a factory outside of Berlin to the SS. I fought against this and I did not obey this directive by Himmler. There must be papers testifying to that. I then was directed to discuss this matter with Pohl during these conferences and during a personal conversation which Himmler demanded and ordered, I still fought against Himmler's directive because basically I was against the SS running their own factories.

Q Did you talk to the defendant Funk about this difficulty with Himmler and Pohl?

A Yes, because these difficulties had the result that in December, Himmler wrote me a letter in which he told me that he had ceased to have confidence in me and he wrote verbally that he had no desire to collaborate with me any more; that he had

H0125-0066

no more confidence in me. This, I told to the defendant Funk in December.

Q Did Funk tell you that his bank was helping Himmler out in the building of factories near the concentration camps?

A I know nothing about that.

Q You never heard of that before now?

A Until now, I had never heard anything about a collaboration of Funk or the Ministry of Economy with the SS, within the framework of financing such purposes.

Q It is perfectly clear, I think, but I want to make certain, that from 1943 to 1945, while you were the deputy to Funk in the Ministry of Economics, the questions of purchasing on the black market and so on in the occupied countries ceased to be of any real importance, didn't they. I understood you to say that a few minutes ago yourself.

A In 1944, and my time of office only started in 1933, since in December I had a ministry which was totally bombed out, we did not get started to work again in January 1944. During that time, these questions were no more of a decisive importance, since the development was retrogressing already.

Q You also were, Mr. Witness, at the Vienna speech, to which you referred, which was made in 1944 and it had nothing to do with the occupied countries but was directed only at the satellite states. Are you aware of that or not?

A The talk in Vienna?

Q Yes, the talk in Vienna in 1944.

A Yes, it is true I have already said that both the speeches in Koenigsberg and Vienna dealt not directly with the occupied territory but with Europe as a whole.

Q Did it deal with the occupied territories directly or indirectly. Now, have you read that speech?

A Yes, I have heard the speech. It directly had nothing to do with it.

Q Finally, in view of your testimony concerning Funk and what he thought about forced labor, you know, don't you, that he took an attitude of unconcern about the forcing of people to come to Germany. Do you know that?

H0125-0067

A No.

Q Well, you know he has said on interrogation that he didn't bother his head about it, although he knew that people were being forced to go to Germany against their will. Are you aware of that?

A No, I am not aware of that at all.

Q All right. If you did know it, would that make some difference to you and would you change your testimony some?

A I am not aware of that, that Funk had this attitude.

Q Very well. Perhaps I can help you by reading to you from his interrogation of October 22, 1945, made here in Nurnberg. Among other things, he was asked these few questions and made a few answers.

"As a matter of fact, you were present at many meetings of the Central Planning Board, were you not," he was asked. Funk answered and said: "I only joined the meetings of the Central Planning Board when I required something for my small sector; that is to say, something to do with export and consumer goods in industries; for example, iron, and I had to fight on each occasion to get just a few thousand tons for my consumer goods industry."

The next question was: "Question: But during those meetings you attended, you heard, did you not, discussions concerning forced labor?" Funk answered: "Oh, yes, I did."

"Question: And you knew from those meetings, that the policy was to bring in more and more foreign workers to the Reich against their will?" Funk answered: "Yes, certainly."

"Question: And you never objected to that, I take it?" Funk answered: "No, why should I have objected. It was somebody else's task to bring these foreign workers in."

"Oh yes: did you believe it was legal to take people against their will from their homes and bring them into Germany" was the last question thatI want to quote to you. He answered: "Well, many things happen in wartime which aren't strictly legal. I have never wracked my brains about that."

Now, if you knowthat to be his attitude from his statements made under oath on an interrogation here, would that change your view about Funk and would it cause you to change the testimony which you have given before the

H0125-0068

Tribunal here today?

A I can only testify to those things which I myself know and I cannot remember such expressions by Funk. I do know and I remember distinctly that we spoke about the occupied territories repeatedly; also about the later development in Europe which was to result from the collaboration. We spoke about the procurementof workers and that Funk fundamentally had a different viewpoint than the actualities were and that he was not in agreement with what was being done. I can only repeat this and if you ask me here as a witness, I can only say what I know.

Q Did you go over all of your questions and answers with Dr. Sauter before you took the stand? You knew what you were going to be asked when you came here, didn't you?

A Her, Dr. Sauter told me the viewpoints and the phases about which he would question me and what would interest him.

MR. DODD: I have no further questions.

THE PRESIDENT: Do any other members of the prosecution wish to cross examine? Dr. Sauter, do you want to re-examine?

DR. SAUTER: No.

THE PRESIDENT: The witness can retire.

(The witness retired)

DR. SAUTER: Mr. President, there are a few interrogatories missing. One has arrived and has been translated. I would like to put the request that at a future time, perhaps in connection with the case Schirach, I may then read these interrogatories. And furthermore, Mr. President, I would like to give a few general statements to the Court. I have read extracts from various documents and I have requested and I would like to ask that all of them be accepted as evidence and I would like to repeat this request; thus, my case Funk has been terminated, and may I express another request at this moment; namely, that during the next few days, the accused von Schirach may be excused from participating in the sessions in Court so he may prepare his case. During his absence, I will represent his interests or, when I am not here, my colleague, Dr. Nelte. Thank you very much.

H0125 - 0069

THE PRESIDENT: Who is appearing for the defendant Schirach?

DR. SAUTER: I am, sir; and if I cannot be present, then Dr. Nelte will be here. One of us will always be in Court and will take care of his interests.

THE PRESIDENT: Yes, very well, Dr. Sauter. Now the Tribunal will adjourn for ten minutes.

(A recess was taken.)

H0125-0070

THE PRESIDENT: Dr. Sauter, there was a document which you didn't refer to. I think it was an affidavit of a witness called Kallus. Were you offering that in evidence? It was an interrogation of Heinz Karl Kallus.

DR. SAUTER: The interrogatory referred to by the President has already been received and at the time it is in the process of translation. I shall submit it as soon as the translation has been received by the Prosecution.

THE PRESIDENT: Well, we have a translation into English.

DR. SAUTER: I believe, Mr. President, that what you havehere is an affidavit by Kallus, and in addition there is still an interrogatory which is in process of translation and which I will submit later.

THE PRESIDENT: This takes the form of an interrogatory, questions and answers, what I have in my hand. I am only asking whether you want to offer it.

DR. SAUTER: Then I don't know. Yes, I offered it in evidence. I requested that judicial notice be taken of it.

THE PRESIDENT: Very well. You gave it a number then, did you? What number will it be?

DR. SAUTER: Exhibit Funk No. 5.

THE PRESIDENT: Very well.

Now, Dr. Kranzbuehler.

DR. KRANZBUEHLER (Counsel for the defendant Doenitz): Mr. President, first I would like to ask permission to keep a secretary, in addition to my assistant, in the courtroom, in order the facilitate the submission of documents.

With the permission of the Tribuanl, I shall first submit a number of documents, and I shall use the document book of the Prosecution and the document books which I am going to submit myself. These document books consist of four volumes. The table of contents is in Volume I and in Volume 3.

First, in the first document of the document book of the Prosecution, USA No. 12, I should like to correct an error in translation which may be of significance. It says there, in the German text, under "1939",

H0125 - 0071

"Konter-Admiral, Befehlshaber der Unterseeboote", and that in the English text has been translated by "Commander-in-Chief". The correct translation should be "Flag Officer of U-Boats". That point is of importance to the fact that Admiral Doenitz, until his appointment to Commander-in-Chief of the Navy in 1943, was not a member of the group which the Prosecution considers criminal.

I should like to call the attention of the Tribunal to Document GB-190. That is the chart which the Prosecution has submitted, a naval chart. This is the chart. It shows the position of the German submarines to the west of England on 1 September 1939, and the Prosecution uses that chart as proof of the question of aggressive war.

The Prosecution says, rightly, that these U-Boats would have had to have started earlier from their home bases. The first document which I offer as Doenitz 1, is to prove, first, that the positions of German U-Boats stated by the Prosecution were tension measures which were taken by every nation in Europe, and that they in no way represented preparatory measures for an aggressive war against England, because such a war was not planned.

I read fromthe document, Document Book No. 1. It is an excerpt from the War Diary of the Naval War Command of September 1939, and I read the entry of 15.8:

"Prepared (for Case Weiss) the following measures:"

THE PRESIDENT: What page?

DR. KRANZBUEHLER: Page 1 of the document book, Volume 1.

THE PRESIDENT: Yes.

DR. KRANZBUEHLER: "15.8. Prepared (for case Weiss) the following measures:

"From 15.8. Spee and all Atlantic submarines ready to sail.

"From 22.8. Transport Westerwald ready to sail.

"From 25.8. Deutschland ready to sail."

And then we find the array of these ships:

"21.8. Report B service about tension measures French fleet.

"23.8. Report B service: Continuation of French tension measures of fleet to 3rd grade. English and French blockade measures off ports.

H0125-0072

"25.8. B Service reports: German and Italian steamers are watched and reported through France."

And then the directive:

"31.8. Arrival Order I of OKW for waging the war: Forceful solution in the East, attack against Poland 1 September, 0445 o'clock. At West responsibility for starting hostilities unequivocally to be left to England and France. Respect strictly neutrality of Holland, Belgium, Luxemburg, Switzerland. No hostile actions or such that could be interpreted as hostile. Luftwaffe only in defense.

"In case of opening of hostilities by Western powers: Defense only at the same time sparing of forces., Reserve beginning of attack-activities. The army holds the 'Westwall'. Naval commercial war with centre of gravity against England. To augment the effect one may count on declaration of zones of danger. Prepare these and present them. The Baltic to be safeguarded against enemy invasion."

So far about this document.

The next document, Doenitz No 2, will prove that the British submarines were active before the start of the war and right at the beginning of it. It is on page 2 of the Document Book. May I only point out that on the 1st of September, 1939, already, electro-motor noises were heard at WANGEROOGE. On th 4th of September, several reports arrived concerning English submarines seen in Heligoland Bay.

Now I come to the Document in which Admiral Doenitz has been accused of participating in the planning of the attack against Norway. That is the document GB-83. The Prosecution has submitted it as proof of the fact that the Admiral played a big role in the occupation of Norway. I shall refer to this document later in detail, in the course of examining the witnesses. But I should like to clarify a few facts now. On the document -- and I submit it in the original to the Tribunal -- there is a stamp which clarifies when the document was received.

In the next document I should like to prove that considerations as to bases had nothing to do with the question of aggressive war, as far as

H0125-0073

Commander Doenitz of Submarines was concerned. I submitted the documents, Doenitz 3 and Doenitz 4. They are on page 3 and 5 of the Document Book. Doenitz 3 is a war diary of the Chief of Submarines, of the 3rd of November, 1939, and I read from the second paragraph:

"At the same time Naval War Command reports that there are possibilities for the establishment of a 'Base North' which seem to be very promising. In my opinion the immediate beginning of all possible efforts to arrive at a clear judgment of the existing possibilities is of the greatest importance."

And then there are considerations of the advantages and disadvantages of such a base, which are identical with the statements in Document 83.

In the case of this "Base North", as one can see from Document Doenitz 4, a part of Murmansk is considered, and it is known that these considerations were in full accord with the Soviet Union.

Furthermore, I should like to show that considerations about bases are continuously made in every naval command --

THE PRESIDENT: You are going a little bit fast over these documents and I am not quite sure that I am following what use you are making of them. This base mentioned in the report is Murmansk?

DR. KRANZBUEHLER: Yes, Murmansk.

And I want to use it as proof, Mr. President, that such considerations and thoughts about bases have nothing to do with the questions as to whether one wants to wage aggressive war in the country where these bases are considered. The considerations about Murmansk were taken in full accord with the Soviet Union, and in the same manner Admiral Doenitz considered bases in Norway. That is the subject of my proof.

THE PRESIDENT: But the fact that Murmansk was suggested as a base, to be taken with the consent of the Soviet Union -- if it was the case -- doesn't have any relevance, does it, to taking a base in Norway without the consent of Norway.

DR. KRANZBUEHLER: Mr. President, the relevance seems to me to exist, because Admiral Doenitz as Commander of the U-Boats in both cases only received the order to state his opinion about bases in a certain country, and that just as in the case of Murmansk, also Norweg and Bruntheim, he could not have

H0125-0074

any judgment in the matter.

COLONEL SMIRNOV (of the Russian Prosecution): Document No. 3, the one being referred to by the Defense Counsel for Doenitz, states something about northern bases, but nothing is mentioned in this document about the plans of the Soviet Union, and to discuss here certain plans of the Soviet Union, in my opinion, is absolutely incorrect, since there were no plans of the Soviet Union; there were no plans for the development of northern bases.

DR. KRANZBUEHLER: If the representative of the Soviet Union has any doubts that that base was considered in full accord with the Soviet Union, then I shall prove that by calling a witness.

THE PRESIDENT: But the document doesn't say anything about it.

DR. KRANZBUEHLER: The document says nothing about it, Mr. President.

THE PRESIDENT: The Tribunal doesn't think you ought to make statements of that sort without evidence and at the moment you are dealing with a document that doesn't contain any evidence of the fact.

DR. KRANZBUEHLER: Mr. President, may I read the document, Doenitz No. 4?

THE PRESIDENT: It is Doenitz 3, isn't it?

DR. KRANZBUEHLER: I arrived already at Doenitz 4. I had read from Doenitz 3. I will now read from Doenitz 4:

"17.11.39. F.O. Submarines receives orders from Naval War Command concerning trying out Base North. The Naval War Command considers the trying out of the bases by 'U 36' due to sail within the next days highly desirable. Supply goods for tanker 'Phoenizia' in Murmansk leaving with fishing steamer to Murmansk on the 22nd of November."

It seems to me that this entry clearly shows that it could have been done only in accord with the Soviet Union and happened in accord with the Soviet Union. Furthermore, I want to show that --

THE PRESIDENT: Wait a minute.

Dr. Kranzbuehler, the Tribunal thinks you oughtn't to make these observations on these documents which really don't support what you are saying. Document No. 3, for instance, doesn't bear any such interpretation, because it refers to attacks which it was suggested should be made against ships coming From Russian ports, in paragraph 2. And equally the other document you referred to, Doenitz 4, on page 5, doesn't bear the interpretation which you are putting upon it.

H0125-0075

DR. KRANZBUEHLER: Mr. President, I am afraid that the contents of both documents have been presented too quickly by me. For anyone who know such war diaries, many things are easily understood which are otherwise not so easy to understand.

Document Doenitz 3 states in that part which I have read that possibilitie for the establishment of a base north exist. These possibilities can only be political possibilities, because one can only establish a base in a country if that country agrees.

The document Doenitz 4 shows that the port in question is Murmansk, and that that base will be tried out with a supply ship, a fishing steamer, and a "U"-boat. That show in my opinion convincingly --

THE PRESIDENT: (Interposing) The question I was raising was on the statement by you that the Soviet Union had agreed, and these documents do not bear out any such statement.

DR. KRANZBUEHLER: I mean that from the document Doenitz 4, that can be clearly seen. It is not possible.

COLONEL SMIRNOV: Right here I must say I protest against the interpretations and unbased statements. I certainly am against misrepresentation of the documents, their weight, and the manner in which counsel is misinterpreting these from his very first steps in defense. I do not belong among the number of magicians, and I do not like to disguise things. I cannot suppose what kind of deductions will be made, deductions out of one or another document. I am a member of the legal profession, and I am accustomed to operating with legal documents the way they are. I am accustomed to operating with the contents of the document the way the contents are expressed.

It seems to me that it is altogether correct that the Tribunal explain to the defense counsel the absolute impossibility of drawing such conclusions as he is attempting to make. I would like to ask that the defense counsel be forwarned so that he would limit himself only to the correct interpretation of the documents, and not misinterpretations.

SIR DAVID MAXWELL-FYFE: Your Honor, I would be grateful if the Tribunal

H0125-0076

would consider a general point of procedure. We have several objections to a considerable number of Dr. Kranzbuehler's documents. I have got out a short list grouping as far as is possible our objections, which I can hand to the Tribunal, and, of course, to Dr. Kranzbuehler now. It is a matter for consideration by the Tribunal whether it would be useful to see that list before the Tribunal adjourns tonight, and maybe here tender certain observations of Dr. Kranzbuehler upon them. Then here the Tribunal might be able to give a decision with regard to certain of the documents before sitting again tomorrow, and thereby save some time.

I suggest, then, that to the Tribunal for their consideration as perhaps the most profitable procedure under the circumstances.

THE PRESIDENT: Are you suggesting that at a certain point of time we should adjourn for the consideration of your list, and then hear Dr. Kranzbuehler on it?

SIR DAVID MAXWELL-FYFE: Yes.

THE PRESIDENT: That is what you suggest?

SIR DAVID MAXWELL_FYFE: Yes, sir. I was going to submit my list to the Tribunal and explain it, and then the Tribunal could hear Dr. Kranzbuehler upon it, and adjourn at whatever time it is suitable.

DR. KRANZBUEHLER: May I make a statement in that regard?

THE PRESIDENT: You may.

DR. KRANZBUEHLER: I do not agree with that proceeding, Mr.

H0125 - 0077

President. For this Tribunal, as an attorney, I have done very little so far; but I am of the opinion that now I have to start and that I have to be granted permission to submit my documents in that order in which I intend to do it; and consider it correct for my job of defense.

I ask the Tribunal to imagine what would have happened if before the presentation of the prosecution I had said that I should like to speak about the relevancy of the documents presented by the prosecution. I believe that comparison shows that I cannot be expected to submit to this change of situation.

I shall try to give reasons for the relevancy of my documents before I submit them, and to a further extent that I thought necessary so far. But I ask the Tribunal to decide that I should submit my documents now, and that the prosecution should be limited to make their objections after my documents have been submitted individually.

SIR DAVID MAXWELL-FYFE: The inconvenience of that course, My Lord, is that I shall then be interrupting Dr. Kranzbuehler every two or three documents, and making a specific objection to an individual document, which will take a great deal of time. I thought it would be more convenient if I indicated to the Tribunal my objections to the documents in the usual way by classes, then to make individual ones.

I put it to the Tribunal to rule on whatever method they think would be most convenient for them.

The last thing I want is to interfere with Dr. Kranzbuehler's presentation, but, on the other hand, the method that he suggests will mean individual objections, because, of course, an objection is useless if it is put in after Dr. Kranzbuehler has developed the document. Or, if it is not useless, it is at any rate of very much less weight.

THE PRESIDENT: Dr. Kranzbuehler, supposing that Sir David Fyfe presents his objections to the documents now, whether in groups or in whatever way he elects, and you then answer him individually upon each document, pointing out the relevance in your view of each document; how does it harm you that the Tribunal will then consider your arguments and will rule upon them, and then you will know what documents the Tribunal have ruled out, and you can then refer to any of the other documents in any way you please?

H0125 - 0078

The only object of it, and the only effect of it, is to prevent the prosecution's having to get up and interrupt, put on the earphones, and take the time for an individual objection to each document to which they wish to object as it turns up. I cannot see that it can interfere with you in the least.

DR. KRANZBUEHLER: Mr. President, I have no objection against the prosecution's stating their objections now. I only wish to avoid my answering each individual objection. If I can be permitted to take my position when each individual document comes up, then I have no objection against the prosecution's stating its objections now.

H0125-0079

THE PRESIDENT: Sir David, the Tribunal would like you to state now your objections to these documents. They will then allow Dr. Kranzbuehler to proceed with his discussion of the documents, answering your argument as to the admissibility of each document that you object to when he comes to it.

SIR DAVID MAXWELL-FYFE: If your Lordship please.

Your Lordship, I am afraid that I have only the Prosecution's objections in English, but it may help those of the Tribunal who do not understand English to have the numbers, at any rate, in front of them.

My Lord, the first group are documents which the Prosecution submit have no probitive value. These are D-53. My Lord, the "D" in this case stands for Doenitz document book. 53, page 99, and D-49, pages 130 and 131; D-51 and D-69.

My Lord, the first of these, D-53, is a letter from a prisoner of war camp, purporting to be signed by 67 U-boat commanders and in purely general terms. The Prosecution submit that that is not helpful, either from its form or from its material.

My Lord, D-49, which is at page 130 to 131, is again in entirely general terms and contains no indication of the moral or legal basis for the opinion expressed.

D-51 and D-69 are both newspaper reports.

THE PRESIDENT: Wait a minute, Sir David, 130? I have not got a page 131. Is it an affidavit, or was it called an affidavit?

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

THE PRESIDENT: "On the basis of the documents of the Navy Court archives at----

Oh, yes, I think the document book has got a bit out of order.

SIR DAVID MAXWELL-FYFE: Yes, My Lord, maybe so.

THE PRESIDENT: Is it a sworn affidavit by somebody or other?

SIR DAVID MAXWELL-FYFE: Yes, My Lord.

My Lord, 130 comes immediately before.

THE PRESIDENT: I have got it now, yes. 131 comes somewhere before 130.

SIR DAVID MAXWELL-FYFE. That is it. It is an affidavit by a former fleet judge, and Your Lordship sees that the description which the

H0125 - 0080

Prosecution give of it being in entirely general terms is, I submit, justified by the wording of the document, and it is difficult to see the basis which the learned opponent seems to profess for his statements.

My Lord, D-51, page 134, is an extract from the Voelkischer Beobachter of 20 March 1945, and the Prosecution submit that the topic on which it is is irrelevant to the matters developed against the defendant Doenitz.

Number 69 is another newspaper report from the same paper of 14 November 1939, giving a list of armed British and French passenger ships.

H0125 - 0081

Now, My Lord, the second group which we developed are those irrelevant documents D-5, D-9, D-10, D-12, D-13, D-29, D-48, D-60, D-74.

Now, My Lord, the first of these, D-5, on the subject of Norway, seeks to introduce by way of a footnote some of the documents which the Tribunal dealt with when considering the documents in the case of the defendant Raeder, with regard to which the Tribunal expressed its doubts of whether to allow them to be inserted. If you will remember, it was really with the Danish documents it was thought convenient to have them translated without a preliminary argument.

Now, My Lord, the same argument applies, which is a foot-note from the defendant von Ribbentrop which is a correction in summary of documents which came into the German possession only after the speech of Ribbentrop was made. The Prosecution submits it is irrelevant.

And the documents, 9, 10, 12 and 13 deal with the rescue of Allied survivors in the years 1939 to 1941 inclusive.

THE PRESIDENT: Oh, yes.

SIR DAVID MAXWELL-FYFE: My Lord, the last statement, "and all apparently unsworn", is an error. It ought to be that D-13 is apparently unsworn.

Now, My Lord, with regard to that, the position is that, whereas, it is quite true that a non-rescue order was issued by the defendant before the 27th of May, 1940, the really important period is around about the 17th of September, 1942. It seemed to the Prosecution unnecessary to delve into these details for the earlier May period. There is no real conflict that there were some rescues; the only point which the Prosecution is putting against the defendant is that he did issue an order, which the Prosecution proved, forbidding rescue when there was no danger.

THE PRESIDENT: What was the date you gave us of November, 1942?

SIR DAVID MAXWELL-FYFE: My Lord, the non-rescue order is before the 27th of May, 1940. We cannot give the exact date but we know from a reference in another order that it must have been before the 27th of May, 1940. And the order with regard to the destruction of the crews of merchant ships is the 17th of September, 1942; 17-9-42.

H0125 - 0082

Now, My Lord, the Document Number 29 contains four documents dealing with the evidence of the Witness Heisig. The first purports to be an affidavit by a witness who speaks to the sort of statements the defendant Doenitz usually made and does not remember what was said on the particular occasion referred to by the witness Heisig; and it contains a good deal of argument.

The second is a letter sent to the Counsel for the defendant Doenitz, and with the exception of one sentence denying that the defendant spoke in the sense as alleged by Heisig, the remainder is either vague or irrelevant.

The remaining two documents, both apparently unsworn, contain allegations against the character of the witness Heisig. The Tribunal will remember that when the allegations were made against him, he was examining his character when he gave his evidence.

And the second deals with other matters which are not those in question.

Now, My Lord, the next document, D-48, deals with the alleged good treatment of Allied prisoners in German Naval Prisoner of War camps, and on which subject no issue has been raised with this defendant.

D-60, page 209, deals with Italian and French declared danger zones, which the Prosecution submit had no relevance to those declared by the Germans.

D-74 and D-60, page 256, deal with the relationship between the British and French merchant marines and their respective navies, and the Prosecution submit that they are irrelevant as far as the British Navy is concerned, if they have any relevance cumulative of D-67.

Now, My Lord, the third group are detailed accounts of the Control System and they are D-60, Pages 173 to 19 8, D-72, D-60, Pages 204 and 205 and Pages 219 to 225.

My Lord, these documents deal with the details of the

H0125-0083

contraband control, what articles were contraband, declarations of different governments, and it is submitted that details of the contraband control are remote from the issues raised and entirely irrelevant. I do not think in the presentation against either of the Naval defendants the question of declarations of contraband was mentioned at all, certainly not in regard to the defendant Doenitz; and in the submission of the Prosecution, it really intraduces matters which are, I am sure, not helpful to the problems of this case.

The fourth group, which can only be described in very general terms, are allegations against the Allies, but the general objection is set out in the first paragraph. These documents consist of various allegations against the Allies; they bear little or no relevance to the issues and if submitted might necessitate the Prosecution seeking the facilities to rebut the allegations; in which case a large amount of evidence in rebuttal might be entailed.

Then other affidavits deal with allegations that the Allies did not pick up survivors; 367, Page 96 and 90.

31 and 32 deal with Allied attacks on German Air-Sea Rescue planes; 33 accuses a Soviet submarine of sinking a hospital ship.

Three numbers, 37, 38 and 40, the last being newspaper report, allege that the Allies shot up survivors. The question of Allied treatment of survivors is dealt with exhaustively by extract from the German Naval Diary and, My Lord, that we are not objecting to because there it is important not as evidence of the facts stated but as evidence of the matters that had an effect on the German Naval Command. For that purpose I am quite ready that Dr. Kranzbuehler should put them in and the Tribunal should consider them. And there is another document which deals with that point quite fully, and I am quite prepared to let that go in.

Then the remainder allege either ruthless actions or breaches of international law by the Allies, and these are Numbers 19, page 24, the Goering exhibit; Numbers 7 and C-21, Page 91; 47, Pages 120, 121, which is also a newspaper report; 52, 60, Pages 152 and 208; D-75, 81, 82, 85 and 89.

Now, as I understand the defense that is developed here to the allegation with regard to the order which we say sets out the destruction of survivors,

H0125-0084

it is not that it was a reprisal, but the defense is that the order did not mean destruction but merely meant non-rescue.

On that basis, it seems difficult, indeed, impossible, to appreciate how these matters become relevant at all.

And similarly with regard to the order for shooting commanders. The justification alleged for the order is set out in the order itself. I haven't heard any defendant develop any justification of that order in giving evidence before the Tribunal. The defendants so far have said this order was given by Hitler and whether they approved of it or not they had to carry it out.

So that in my submission there isn't even the argument which is foreshadowed that breaches of the laws and usages of war can be in certain occasions properly committed as reprisals. It is not put forward from that point of view; there is no attempt here as I understand the defense to show breaches for which reprisal is the answer. Therefore, the Prosecution submit that these documents are also irrelevant.

Again, I tried to put it as shortly as possible because I didn't want to occupy too much time, but I tried to correct them and describe those which seemed of greatest importance.

H0125-0085

THE PRESIDENT: Sir David?

SIR DAVID MAXWELL-FYFE: If Your Lordship pleases.

THE PRESIDENT: The Tribunal would like to know why this matter of the admissibility of these documents hasn't been argued before. In the other cases with which we have dealt, the question of the admissibility has been dealt with by, first of all, your offering your criticisms and objections, and then the defendant's counsel being heard in reply. Then the Tribunal have ruled.

SIR DAVID MAXWELL-FYFE: My Lord, as I understand the position, we did put in objections to the documents and Dr. Kranzbuehler suggested that he would very much prefer the documents being translated and the objections taken at a later stage. And I was certainly informed that the Tribunal agreed with that and ordered the documents to be translated.

THE PRESIDENT: That may be, for the purposes of translation. However, that doesn't mean that they are necessarily admissible. In most of the other cases, if not all, as you will remember, we have had an argument in open session in which you, or one other member of the prosecution, have made your objections, and then the defendant's counsel has replied to those objections.

SIR DAVID MAXWELL-FYFE: My Lord, Dr. Kranzbuehler has just handed me this note.

The ruling is: "The Tribunal have ruled that the documents mentioned in your application may be translated, but that the question of their admissibility is to be decided later."

My Lord, I am afraid I am at fault there. It didn't occur to me, if I may be quite frank with the Tribunal, that I should have come before the beginning of the case of Doenitz to make this argument. I am very sorry, and I must accept responsibility. I assumed, without real justification, that that meant the argument of admissibility would come at the beginning, or at some convenient time in the case of Doenitz. I am very sorry, My Lord, and I can only express my regret.

My Lord, there is this excuse: We had three of the books on Saturday, and we only got the last one yesterday. Therefore, we really couldn't have

H0125 - 0086

done it before today, even if I had thought of it.

THE PRESIDENT: Dr. Kranzbuehler, the Tribunal considers that in view of the large number of documents to which the prosecution object, it will be highly inconvenient to have you answering Sir David Maxwell-Fyfe's argument as you go through your documents, and therefore that you must answer now and deal with them in the way in which the other defendants have dealt with the objections to the admissibility of documents. Then the Tribunal will be able to consider the arguments that Sir David Maxwell-Fyfe has put forward and the arguments that you put forward in support of the documents.

DR. KRANZBUEHLER: Mr. President, I should like to emphasize that especially because of the many objections which the prosecution makes against the documents, I would have to submit all my documents, practically. That is because the trend of thought of my documents is in a certain order, and I cannot take out one document or another without disturbing that trend of thought. Therefore, I believe it would save time if the Tribunal would permit me to answer the objections when I come to the documents.

THE PRESIDENT: What difference could it make, assuming that the decision of the Tribunal is the same, whether you argue the matter now or whether you argue the matter afterwards? The documents which will remain, which will have been held to be admissible, will be the same. Therefore, there is no difference. I can't see any argument in favor of what you are saying.

DR. KRANZBUEHLER: Mr. President. My documentary material, in the same way as the documentary material of the prosecution, is organized in a certain way. If, of the 50 documents which are contained in my material, I have to discuss 40, or argue about 40, and withdraw some of them, then there are some more missing. Therefore, I should like to discuss all 50, in the order in which I intended to submit them to the Tribunal.

If the Tribunal is of the opinion that the reason given for the relevancy of the document is not sufficient, then acceptance of the document will have to be refused, and the document withdrawn. However, it seems essential to me that I present my arguments in that order which I intend, and

H0125 - 0087

not in the order in which the prosecution has made its objections. That would entirely disturb the trend of thought of my presentation, and, as defense counsel, I believe it is my task to present my trend of thought and not that of the prosecution, or of the objections.

THE PRESIDENT: Well, if that is so, then you can present your argument upon the relevancy of the documents in the order in which they come.

DR. KRANZBUEHLER: Yes.

THE PRESIDENT: But you have to do it now.

DR. KRANZBUEHLER: Yes, Mr. President.

THE PRESIDENT: You can begin with D-5, which is the first, and then go on with D-9 and D-10; take them in the order in which they stand.

Dr. Kranzbuehler, the Tribunal doesn't see any reason why you should be dealt with in a different way from which the other defendants have been treated. Therefore, they think that you ought to be prepared to deal with these documents in the way in which they are grouped here. They would prefer that you should deal with them now, if you can deal with them in a reasonably short space of time. Then they will be able to determine the question of which documents shall be admitted during the adjournment. Otherwise, they will have to adjourn tomorrow for a consideration of that matter, which will still further hold up the trial.

DR. KRANZBUEHLER: Mr. President, of course I can state my position as to the groups which the prosecution has referred to. That is, I can make general statements, but I cannot refer to the individual documents with the care which is necessary, and the detail which is necessary. That is impossible immediately after I receive a list which I have not seen before.

Therefore I should like to ask, if I give reasons for each individual document now, that I be given an opportunity to do that tomorrow morning.

However, if the Tribunal only wishes to hear general remarks about the groups, I can do that right now.

THE PRESIDENT: Very well, Dr. Kranzbuehler. The Tribunal will adjourn now, and we will hear you upon these documents at 9:30 tomorrow morning.

DR. KRANZBUEHLER: In open session, Mr. President?

THE PRESIDENT: Certainly, yes.

(The Tribunal adjourned until Wednesday, 8 May 1946, at 0930 hours.)